

STUDIES IN INCOME-TAX

Incorporating the Provisions of the Finance Act. '56)

VOL. I.

[Written According to the Syllabus for Three Year Degree
Course, B. Com., (Pass & Honours) of Calcutta,
Burdwan & North Bengal Universities]

with

Worked out examples of different Indian Universities
and hints in Bengali.

By

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PREFACE

The Law of Income Tax in India has become very much complicated to-day. The students of Indian universities and also the tax-payers find considerable difficulties in understanding the various provisions of Income-Tax Act. This book is an attempt to make those provisions easier to all. A good number of illustrations covering almost all the problems have been incorporated. On various complicated points, hints have also been given in Modern Indian Languages. Thus, every attempt has been made to make the Income Tax law as clear as possible. Besides, Question papers of B. Com. of Burdwan and Calcutta Universities (Pass and Honours) with their full answers have also been appended.

In this volume the entire B. Com. (Pass) course and the relevant portion under B. Com. (Honours) and M. Com. courses of Calcutta, Burdwan and North Bengal Universities have been properly dealt with. Possibly it will cover the similar courses of other Indian Universities. Employees of Income Tax Department will find in it a very useful guide in appearing at their various departmental examinations.

The book has been written in consultation with Prof. M.N. Guha, Chartered Accountant, to whom I am very much indebted. My sincerest thanks are due to Principal Dr. S. R. Dasgupta, Principal G. D. Roy Prof. B. Sengupta, Prof. Anil Datta, Prof. Sudhansu Sekhar Bhattacharya and Prof. A. Banerjee and Prof. S. P. Bhattacharya whose inspiration and enthusiasm have made the publication possible.

I am grateful also to Sarbashri Sakti Ghose, Sunil Bhattacharyya, Sudhir Das and Saurindra Datta for their active assistance and co-operation in the matter of publication of this book.

Despite my best efforts there must be many shortcomings in this book. I shall be thankful, if any of my readers would kindly draw my attention to any scope for improvement in the next edition.

My endeavour will be deemed a success if this book proves useful to those for whom it is intended.

Sunil Ranjan Datta

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SYLLABUS

Group B—Income-tax (pass) .. 40 marks

1. (a) General Principles of Income-tax, (b) Definition of Terms—Income, Previous years, Income—earned, total, taxable world. Assessee Agricultural Income, Dividend. (Sec. 2). Meaning of terms—Income-tax and Super-tax.

2. Liability for Income-tax. Chargeable Income—Different heads—Classes of Assessee, Resident, Non-resident, Not ordinarily Resident (Secs. 3, 4 and 6).

3. Computation of taxable income under different heads—Salary (Sec. 7), Interest (Sec. 8), Property Income (Sec. 9), Business, Profession and Vocation (Sec. 10), Other sources (Sec. 12),

4. Method of Accounting (Sec. 13).

5. Simple cases of Computation of total Income of an Individual.

(1) Section A—Income Tax (Honours) ...50 marks

Income Tax Law and Accounts excluding Company Matters (Income Tax Act, 1922 and Indian Finance Act).

(i) Definitions (Introduction).

(ii) Charge of Income-Tax and Super-Tax (Chs. I and IX).

(iii) Taxable Income (Ch. III).

(iv) Deduction and Assessment (excluding procedure and appeal) (Ch. IV).

(v) Rates of Tax (Finance Act).

(vi) Refunds and Reliefs (Ch. VII).

STUDIES IN INCOME TAX

A BRIEF HISTORY

Income tax is one of the most important sources of revenue for financing governmental activities in India. The system of Income Tax is not a new thing in India ; it existed even in the Hindu period. It was first introduced in British India in 1860. Since then it has undergone several minor amendments. Many new enactments were also passed during the period upto 1886. The enactment of 1886 placed Income Tax on a sound and permanent footing. It continued upto 1918 with certain striking changes in the years 1903, 1916 and 1917. In the year 1903, the taxable minimum was upgraded. In 1916 the principle of gradation in India was first introduced, and Super Tax was introduced in the year 1917.

The Income Tax Act of 1918 repealed all the previous Acts, and it remained in operation till 1922 when a new Act had to be passed after the reforms caused by the Government of India Act of 1919. The Act of 1922 remained in force for a period of 40 years ; but during this period innumerable amendments were made. The Annual Finance Act of the Government of India also made several changes in the rules and regulations of the Income Tax Act. Because of these various amendments the Act became complicated. With a view to simplify the provisions of the Act it was referred to the Law Commission in 1956. The report was submitted in the year 1958. Again, in order to prevent evasion of taxes and minimise trouble caused to the assessee, the Direct Tax Administration Enquiry Commission was formed. The Commission submitted its report in the year 1959. The recommendations of the Law Commission, report of the Direct Tax Enquiry

Commission and suggestions from the members of the public, Chambers of Commerce and other interested persons were examined by the special committee of the Central Board of Revenue. On the basis of their findings, an Income Tax Bill was prepared and was introduced in the Indian Parliament in April 1961. The Bill was referred to the Select Committee in May 1961, and finally the same was passed in September 1961. It is a comprehensive Act containing 298 Sections and 4 Schedules.

Income Tax Act 1961 came into force on 1st April 1962 and its provisions are applicable to the whole of India including the State of Jammu and Kashmir.

The Central Board of Direct Tax is also empowered by this Act to make certain rules.

Besides, the Annual Finance Act of the Government of India fixes the rates of taxes to be charged each year. These rules along with the Annual Finance Acts are equally effective as the Sections of Income Tax Act, 1961 in governing Income Tax of India. Again, according to Section 297 of the present Act the provisions of the old Act of 1922 are made effective under certain special circumstances.

CHAPTER I

DEFINITIONS

Q. 1. What is Income and what it includes ?

Ans. Income Tax as the term signifies is a direct tax on income. But the Act does not define the term 'Income' in precise terms. It simply signifies certain items which are to be included in Income for the purpose of Income Tax. To have a clear conception about the term reference to the various judicial pronouncements in this respect should be made.

Income generally means a periodical monetary return coming with some sort of regularity or expected regularity from definite sources. The source need not be necessarily one which is expected to be continuously productive, but it must be one whose object is the production of definite return. It excludes any thing in the nature of mere windfall. Thus Income has been likened pictorially to the fruit of a tree or the crop of a field.

The provision of the Act under Section 2 (24) is not exhaustive. It thus widens the accepted meaning of the term 'Income'. According to Section 2 (24) the following types of receipts are included in the "Income".

- (i) Profits and Gains,
- (ii) Dividends.
- (iii) The value of any perquisites or profits in lieu of salary taxable under the head 'Salaries'.
- (iv) (a) The value of any benefits or perquisites obtained from a company either by a Director or by a person who has substantial interest in the Company or by the relative of the Director or such person.

(b) Any sum paid by any such Company in respect of any obligation which, but for such payment, would have

been payable by the Director or other person as mentioned above.

(v) Profits and gains of business and profession under Section 28.

(vi) Any sum chargeable to Income Tax under Sections 41 and 59.

(vii) Any Capital gains chargeable under Section 45.

(viii) (a) Profits and gains of any business of insurance carried on by a mutual Insurance Company or by a Co-operative Society.

(b) Any surplus taken to be such profits and gains by virtue of the provisions contained in the First Schedule.

Q. 2. Who are liable to pay tax ? Add a very short note on each item.

Or, Define "Person" according to Income Tax Act.

[C. U. Degree Course B. Com. 1964]

Ans. Income Tax is payable on the 'income' of a person. According to Section 2 (31) A person includes :—

1. An individual,
2. A Hindu Undivided Family,
3. A Company,
4. A Firm,
5. An Association of persons or body of individuals whether incorporated or not,
6. A Local Authority,
7. Every artificial judicial person not falling within any of the preceding sub-clauses.

Short notes on persons :—

Individual :

It means a human being or a single person. A Trustee or Administrator or Executor is also assessable as an individual in his respective capacity. A married woman is liable to pay tax in respect of income earned by her own

skill. A minor is also assessable for his earnings earned by his own skill.

Even a person of unsound mind is also liable to pay tax in respect of his income as an individual.

Hindu Undivided Family :

It is not defined in the Income Tax Act. It has to be determined with the help of sacred books and customs of the Hindus and also from various judicial pronouncements. It is a tenancy in common arising by Law among certain relations. It may include relation by adoption, but it can, under no circumstances, be created by contract or agreement by strangers who are not so related. The Hindu Undivided Family is governed by two schools of Hindu Law—(1) Dayavhaga and (2) Mitakshara. According to Dayavhaga Law, a son has no right in the property of the family during the life time of the father, but according to Mitakshara Law, every male member acquires a right in the family's property immediately after his birth.

Company :

It means a company formed and registered under the Companies Act, 1956 and includes :

(1) A company formed and registered under any Law relating to Company formerly in-force in any part of India (other than the State of Jammu and Kashmir).

(2) In the case of the State of Jammu and Kashmir, a company formed and registered under any Law for the time being in-force in that State provided that the registered office of the company in all cases is in India.

Thus the meaning of the term 'Company' has much wider scope under Section 2 (26) of the Act.

Local Authority :

A Local Authority means an authority such as Municipal Committee, District Board, Improvement Trust,

Water Board, Inland Navigation Board, Body of Port Commissioners etc. legally entitled to the control and management of the municipal fund.

Firm :

The 'Firm' as defined by the Indian Partnership Act, 1932 has been adopted by the Indian Income Tax Act. The definition given by the Indian Partnership Act, 1932 is as follows :

“Partnership is the relation between persons who have agreed to share the profits of a business, carried on by all or any of them acting for all.” Persons who have entered into partnership with one another are called individually “Partners” and collectively “a Firm” and the name under which the business is carried on is called the “firm name”.

The expression “partner” for the purpose of Income Tax shall also include any person, who being a minor, has been admitted to the benefits of partnership.

Association of Persons :

It means association or body of individuals, companies, firms whether registered or not. The common tie between them is their joint interest. It has the right to sue and the liability to be sued as an association. Co-owners, Chambers of Commerce, Clubs, Co-operative Societies, Mutual Benefit Societies, Mutual Insurance Companies are examples of such associations of persons.

Artificial Judicial Person :

Apart from an association of persons or a Company which are recognised as a legal person, an artificial judicial person is also to be assessed under Section 2 (31) of the Income Tax Act. Artificial Judicial Person

includes a University, Bar-Council, Statutory Corporation and a God.

Q. 3. Define "Hindu Undivided Family" according to Income Tax Act.

[C.U. Degree Course. B. Com. Part II 1965]

Ans. Income Tax is payable on the "Income" of a "Person". According to Section 2 (31) the term "Person" includes seven categories of persons of which "Hindu Undivided Family" is one.

[For the next portion of the answer see answer to the Q. No. 2 (Hindu Undivided Family portion only, page 5)]

Q. 4. What is Agricultural Income ?

[C. U. Degree Course B. Com. 1964]

Ans. There are certain types of incomes which are not taxable under the Income Tax Act. Agricultural income is of such a type which is excluded from Income Tax Act. It generally means the income derived from agriculture. According to section 2 (2), Agricultural Income means :

- (1) Any rent or revenue derived from land,
- (2) Any income derived from such land by agriculture :—

(i) Through the performance of any agricultural process by a cultivator or by a receiver of rent-in-kind to render the produce raised or received by him fit to be taken to the market.

(ii) From the sale of the produce raised or received by a cultivator or receiver of rent-in-kind. In respect of the produce sold no process other than as stated above, has been performed.

To treat any item as agricultural income, the land from which the income is derived must satisfy the following conditions :—

- (i) It must be used for agricultural purpose,
- (ii) It is either assessed to Land Revenue in India or is

subject to a local rate assessed and collected by officers of the Government as such.

(4) Any income derived from any building provided :

(i) The building is in the immediate vicinity of the land,

(ii) The building is owned and occupied as a dwelling house or store house by the cultivator or receiver of rent-in-kind of any such land mentioned above.

The following incomes though derived from land are not treated as **Agricultural Income**, and hence taxable.

(i) Income from fisheries,

(ii) Income from markets,

(iii) Income from royalty for mining,

(iv) Income from moorings and ferries,

(v) Income from the sale of salt from land flooded with salt water,

(vi) Income from supply of irrigation water,

(vii) Income from interest payable in cash or kind on loan to the cultivators for conducting agricultural operation,

(viii) Income from the sale of straws, fruits, woods, barks and leaves of trees which have grown on the land spontaneously without any human labour.

(ix) Any income from dairy farming and cheese making,

(x) Income from the sale of earth for brick making,

(xi) Income from interest on arrears of land revenue.

Incomes from Tea-estates and Sugar mill Companies owning their own cane farms are partly agricultural and partly non-agricultural. 60% of the income from Tea-estate is treated as agricultural income and the rest non-agricultural.

Q. 5. What is Total Income and Total world Income ?

Ans. Assesseees are first classified into three categories on the basis of their residence. These different types of assesseees have to pay taxes on their different types of

incomes as per Section 2 (45). Total Income means the total amount of income referred to in Section 5 computed in the manner laid down in this Act. It means incomes derived from :

- (1) Salaries,
- (2) Interest on Securities,
- (3) Properties,
- (4) Profits and gains from business, occupation and vocation,
- (5) Capital gains, and
- (6) Other sources in the manner as computed under the Act.

As per Section 2 (46) of the Act, Total world Income includes all incomes wherever arising or accruing except incomes which are not included in the Total Income under any provisions of the Act and non-taxable capital gains. So it includes incomes from profits and gains arising outside India in addition to the Total Income as defined above. It has got its significance only in the case of non-resident.

Q. 6. What is Casual Income ?

Ans. There are certain types of income which are of casual, non-recurring or temporary nature. These types of casual incomes are non-taxable incomes. These incomes are in the nature of unforeseen windfall gains. As per Section 10(3) of the Act, any receipt to be treated as casual income must satisfy the following conditions :

- (1) It must be of a casual and non-recurring nature.
- (2) It must not be in the nature of Capital Gains chargeable under the provision of Section 45.
- (3) It must not arise from business or from the exercise of profession or occupation,
- (4) It must not be by way of addition to the remuneration of employee.

Q. 7. What is Earned Income ?

Ans. There are certain types of incomes which are earned by personal exertion. Incomes from salary, profits of business and professional occupation are of such kind. In terms of Section 2 (7) of the Annual Finance Act, earned income includes :

- (1) Income chargeable under the head 'Salaries'
- (2) Income chargeable under the head 'profits and gains' of business, profession and vocation, if such business, profession or vocation is carried on by the assessee himself.
- (3) Income chargeable under the head 'Other Sources' provided the income is earned by personal exertion. Directors' fees, royalties of authors are examples of such type of income. It may also include a pension or superannuation or other allowances given to an assessee in respect of his past services.
- (4) Any other income of another person but treated as assessee's income under any provisions of the Act.

The following persons only can have earned income.

- (1) An Individual,
- (2) A Hindu Undivided Family,
- (3) An Unregistered Firm,
- (4) An Association of persons (not being a Company, Local Authority or Registered Firm)

Q. 8. What is Unearned Income ?

Ans. There are again certain types of incomes which are earned without any personal exertion. These are called unearned incomes. Income from properties, Interest on Securities, Dividend on shares etc. are of such type, which the assessee earns without any personal exertion ; hence treated as unearned income.

Q. 9. Who is an 'Assessee' ? Mention the different classes of assessees. [C. U. Degree Course B. Com. 1963]

Or, Define "Assessee" according to Income Tax Act.
[C. U. Degree Course B. Com. Part II 1965]

Or, Explain the term "Assessee" as defined in Income Tax Act.
[C. U. M. Com. 1961]

Ans. In terms of Section 2 (7), assessee means a person who is liable to pay Income Tax or Supper Tax or any other sum payable under the Act. It includes—

(1) Every person in respect of whom any proceeding under this Act has been taken for assessment of any of the following :

- (a) his income,
- (b) the income of any other person in respect of which he is assessable,
- (c) the loss sustained by him or by such other person,
- (d) the amount of refund due to him or to such other person.

(2) Every person who is deemed to be an assessee under any provisions of the Act. The local representative of an assessee is deemed to be an assessee in his representative capacity under Section 160 of the Act. An agent is deemed to an assessee for the income of the non-resident.

(3) Every person is deemed to be an assessee in default under any provisions of the Act. An assessee who fails to pay the instalment amount of advance tax in due time is deemed to be an assessee in default under Section 218.

Classification of assessees

Assesseees are classified into the following categories according to the legal and residential status.

- (i) Classification accorrding to the residential status :—
 - (a) Resident and Ordinarily Resident,
 - (b) Resident but not Ordinarily Resident,
 - (c) Non-Resident.

(ii) Classification according to the legal status :—

- (a) Individual,
- (b) Hindu undivided family,
- (c) Company,
- (d) Firm,
- (e) Association of persons or body of Individuals,
- (f) Local Authority,
- (g) Artificial Judicial person.

Q. 10. What is exempted Income ?

Ans. There are certain types of incomes which though included in the total Income of the person, are otherwise exempted from the Income tax and/or Super Tax. A rebate is allowed on such income at an average rate of tax calculated on total income. These are treated as Exempted Income.

✓ **Q. 11. What is dividend ?**

Or, Explain the term "Dividend" as defined in the Income Tax Act. [C. U. M. Com, 1961]

Or, Explain "Dividend Income". [C. U. M. Com. 1962]

Ans. The share of profit of a Company received by shareholders is generally called Dividend. Income from dividend is included under the head "Income From Other Sources". As per Section 2 (22) of the Act, the following specific distributions are included in the 'Dividend'.

Any distribution by a Company to its shareholders :

(1) Accumulated profits whether capitalised or not, if such distribution entails the release of all or any part of the assets of the Company.

(2) (a) Debenture, Debenture Stock or Deposit Certificate in any form whether with ~~interest~~ or without interest to the extent to which the company possesses accumulated profits, whether capitalised or not.

(b) Share by way of bonus to the extent to which the Company possesses accumulated profit whether capitalised or not. This is applicable only in the case of preference shareholders.

(3) On the liquidation of a Company any distribution to the shareholders, to the extent to which the distribution is attributable to the accumulated profits immediately before its liquidation whether capitalised or not.

(4) On the reduction of its capital any distribution to the shareholders to the extent to which the Company possesses accumulated profits whether capitalised or not.

(5) (a) Any payment by a Company (not being a Company in which public are substantially interested) of the sum by way of advance or loan to a shareholder being a person who has substantial interest in the Company.

(b) Any payment by any such Company (not being a Company in which public are substantially interested) on behalf or for the individual benefit of any shareholder to the extent to which the Company in either case possesses accumulated profits.

But Dividend does not include :—(1) Any distribution made in accordance with the sub-clauses 3 and 4 in respect of any share issued for full cash consideration where the shareholder is not entitled in the event of liquidation to participate in the surplus assets.

(2) Any advance or loan made to a shareholder by a Company in the ordinary course of business where the lending of money is a substantial part of the business of the Company.

(3) Any dividend paid by a Company which is set off by the Company against the whole or any part of any sum previously paid by it and treated as dividend within the meaning of clause 5 to the extent to which it is so set off.

Explanations :

(1) The expression of accumulated profit wherever it occurs shall not include capital gains arising out before 1st April 1946 or after 31st March 1948 and before 1st April 1956.

(2) Accumulated profits will include all profits upto the date of distribution or payment of profits upto the date of liquidation, as the case may be.

Q. 12. Define-Assessment year.

Ans. Assessment year : The amount of tax payable under Indian Income Tax Act is assessed annually in each **Financial Year**. Financial Year means the period of 12 months commencing on the 1st day of April every year.

The Assessment Year is the Financial Year in which tax is levied. The Financial Year commencing on the 1st day of April 1965 and to be ended on 31st March 1966 is termed as the Assessment Year 1965-66.

PREVIOUS YEAR (Explained)

Income Tax is payable on the income of the previous year. Previous Year is also known as 'Income Year' or 'Accounting Year'. Now the question is what is Previous Year? Previous Year for any Assessment Year generally means the Financial Year immediately preceding that Assessment Year.

Example :

For the Assessment Year 1965-66 the Previous Year will be the Financial Year (1964-65) immediately preceding this Assessment Year. To make it more clear it may be said that the Previous Year for the Assessment Year 1965-66 will be the period of 12 months commencing on

the 1st day of April 1964 and ending on 31st March 1965, or it may be any period of 12 months ending within 31st March '65.

As per Section 3 of the Act. (a) Previous Year means The Financial Year immediately preceding the Assessment Year.

(b) If the accounts of the assessee have been made upto date within the said Financial Year the period of 12 months ending on such date will be his Previous Year.

Example :

Suppose that the Accounting Year i.e., Income year of any person is from 1st January to 31st December. In this case the Previous Year for the Assessment Year 1965-66 will be the period from 1st January 1964 to 31st December 1964. In this case his Income Year (January 1964 to December 1964) is ending within the Financial Year 1964-1965 i. e. the Financial Year immediately preceding the Assessment Year 1965-66.

(c) In the case of any person or business not falling within the above two clauses, the Previous Year will be such period as may be determined by the Board or by any Authority authorised by the Board in its behalf.

(d) (i) In the case of business or profession newly set up in the said Financial Year (Financial Year immediately preceding the Assessment Year) the Previous Year will be the period beginning with the date of setting up of the business or profession and ending with the said Financial Year (ending on 31st March immediately preceding the Assessment Year).

(ii) (In case newly set up business or profession) If the accounts of the assessee have been made upto a date within the said Financial Year then Previous Year will be the period, at the option of the assessee, ending on that date.

(iii) (In Case of newly set up business or profession)
The Previous Year may be the period beginning with the date of setting up of the business or profession and ending with the period as may be determined by the Board or by any Authority authorised by the Board.

Example :

Suppose that the Assessment Year is 1965-66. So, in this case the Financial Year immediately preceding this Assessment Year is the period from 1st April 1964 to 31st March 1965.

(1) Mr. A has set up a new business on 1st October 1964 (falling within the said Financial Year). In this case the Previous Year for this Assessment Year may be the period from 1st October 1964 to 31st March 1965 (i.e. ending with the said Financial Year).

(2) But suppose that the accounts of Mr. A are made up to the 31st December 1964. In this case he may adopt his Previous Year for that Assessment Year (1965-66) as the period from 1st October to 31st December 1964. In this case for all subsequent Assessments his Previous Year will be the period from 1st January to 31st December each year.

(3) If the accounts of Mr. A are not made upto the date of assessment he will have no option but to adopt the period from 1st October 1964 to 31st March 1965 as his Previous Year. It is assumed that the assessments are taken after 12 months from the date of setting up of his business.

(iv) But if the accounts of the assessee are made upto a date in the Assessment Year for a period not exceeding 12 months from the date of setting up of his business, then at the option of the assessee the Previous Year will be that period for which accounts are made up.

Examples :

(i) Suppose that the Assessment Year is 1965-66. Mr. X has set up a new business on 1st July 1964 and his accounts are made upto 30th June 1965 and he is entitled to adopt this period (from 1st July 1964 to 30th June 1965) as his 'Previous Year' or 'Accounting Year', but the income of this Previous Year cannot be assessed in the year 1965-66. It can be assessed only in the Assessment Year 1966-67. ¹ e. for the Assessment Year 1965-66 Mr. X will have no Previous Year.

(ii) In this case if Mr. X adopts the period of 11 months from 1st July to 31st May as his Previous Year and his accounts are made upto 31st May 1964, he is entitled to do so, and in this case also he will have no Previous Year for the Assessment Year 1965-66 and ultimately his accounting period will be the period from 1st June to 31st May next in each subsequent years.

(d) (3) In the case of business or profession newly set up in the said Financial Year—if the accounts of the assessee are not made up-to-date on the date of assessment and assessments are taken before the completion of 12 months from the date of the setting up of his business, the assessee may contend that he will make up his accounts for a period of 12 months. In this case assessments may be kept postponed. But if assessments are taken on any date after the completion of such 12 months and the assessee has not made up his accounts (for any period not exceeding 12 months) he will have no other option but to adopt the period from the date of setting up of the business to 31st March next following as his Previous Year.

Example :

Mr. M started a business on 1st October 1963 and the assessments are taken on 5th June 1964. Mr. M has not made up his accounts for his new business up to the time

of assessment. He contended that he would close up his accounts on 30th September 1964 (exactly after the completion of 12 months from the date of starting his business). He was entitled to do so. But if the assessments were taken, say, on 5th October 1964 and he had not made up his accounts for any period not exceeding 12 months, in this case he would have no option but to adopt the period upto 31st March 1964 as his Previous Year.

(e) In the case of business or profession newly set up in the 12 months immediately preceding the said Financial Year—(1) if the accounts of the assessee have been made upto a date within the said Financial Year for a period not exceeding 12 months then, at the option of the assessee, such period will be his Previous Year. (2) If any period has been determined by the Board or by any authority authorised by the Board, then the period beginning with the date of setting up of the business and ending with that period.

(f) Where the assessee is a partner in a Firm then in respect of the assessee's share in the income of the Firm, his Previous Year will be the period as adopted by the Firm as its Previous Year.

(g) In respect of profits and gains from Life Insurance Business, Previous Year will be the year immediately preceding the assessment Year for which annual accounts are required to be prepared under the Insurance Act 1938 or under the Life Insurance Corporation Act 1956.

Subject to other provisions of the Act in this Section, the assessee may have different Previous Year in respect of separate source of his income.

In respect of a particular source of income or of a business or profession newly set up, an assessee once adopting the particular accounting period as his Previous

Year, is not entitled to change it except with the consent of the Income Tax Officer and on such conditions as the I. T. O. may impose.

The Previous Year cannot be for a period of more than 13 months and less than 11 months.

পূর্ববর্তী বৎসর (Previous Year)

পূর্ববর্তী বৎসরের (Previous Year)-এর আয়কে ভিত্তি করিয়াই করদাতার উপর আয়কর ধার্য হয়। এই Previous Year-ই তাহার আয় বা হিসাবের বৎসর (Income year or Accounting Year).

ইহা আমরা জানি যে, প্রতিটি আর্থিক বৎসরই (Financial Year) কর ধানের বৎসর (Assessment Year)। অর্থাৎ ১লা এপ্রিল হইতে ৩১শে মার্চ পর্যন্ত এই বৎসর।

আয়কর আইনে Previous Year-এর বিশদ ব্যাখ্যা দেওয়া হইয়াছে।

১। সাধারণভাবে Assessment Year-এর ঠিক পূর্ববর্তী আর্থিক বৎসরটিকেই Previous Year বলা হয়।

১৯৬৪ সালের ১লা এপ্রিল হইতে ১৯৬৫ সালের ৩১শে মার্চ পর্যন্ত আর্থিক বৎসরটিকে (১৯৬৪-৬৫) যদি Assessment Year ধরা হয় তাহা হইলে সাধারণভাবে ১৯৬৩ সালের ১লা এপ্রিল হইতে ১৯৬৪ সালের ৩১শে মার্চ পর্যন্ত যে আর্থিক বৎসর (১৯৬৩-৬৪) তাহাকেই উক্ত Assessment Year-এর (১৯৬৪-৬৫ সালের) Previous Year বলা হয়।

২। অথবা, উপরোক্ত ক্ষেত্রে যদি করদাতার হিসাবপত্র তৈয়ারী থাকে, তাহা হইলে যে কোন ১২ মাসের একটি কাল (Period) যাহা ১৯৬৩ সালের ১লা এপ্রিল হইতে ১৯৬৪ সালের ৩১শে মার্চের মধ্যে শেষ হইবে তাহাকেও উক্ত Assessment Year-এর Previous Year বলা হয়।

অর্থাৎ যে-কোন ১২ মাসের একটি হিসাব-বৎসর যদি Assessment Year-এর ঠিক পূর্ববর্তী আর্থিক বৎসরটির (Financial Year) মধ্যে শেষ হয় তাহা হইলে সেই হিসাব-বৎসরটিকে উক্ত Assessment Year-এর জন্য সেই ব্যক্তির 'Previous Year' বলিয়া গণ্য হইবে।

মনে কর, Assessment Year ১৯৬৪-৬৫ সাল। কোন ব্যবসায়ী Calender Year-এর মতে (১লা জানুয়ারী হইতে ৩১শে ডিসেম্বর) হিসাব রাখে। সেইরূপ ক্ষেত্রে ১৯৬৪-৬৫ সালের Assessment Year ব্যবসায়ীর Financial Year নিম্নরূপ হইবে :—

১৯৬৪-৬৫ সালের ঠিক পূর্ববর্তী আর্থিক বৎসরটি হইবে ১৯৬৩-৬৪ সাল। (অর্থাৎ ১৯৬৩ সালের ১লা এপ্রিল হইতে ১৯৬৪ সালের ৩১শে মার্চ পর্যন্ত)। উক্ত ব্যবসায়ীর হিসাব-বৎসর (Accounting Year), ১লা জানুয়ারী ১৯৬৩ সাল হইতে ১৯৬৩ সালের ৩১শে ডিসেম্বর পর্যন্ত, এই ১২ মাস কালকেই উক্ত Assessment Year-এর Previous Year বলা হইবে। কারণ এই হিসাব-বৎসরটি ১৯৬৩-৬৪ সালের আর্থিক বৎসরের মধ্যে শেষ হইয়াছে।

৩। কোনও কোনও ক্ষেত্রে Previous Year-টি এইভাবে নির্ধারণ করা সম্ভব না হইলে Income Tax কর্তৃপক্ষ উহা নির্ধারণ করিয়া থাকে।

৪। নূতন ব্যবসায়ক্ষেত্রে Previous Year একটি অগ্ৰভাবে নির্ধারিত হয়। কোনও Assessment Year-এর ঠিক পূর্ববর্তী আর্থিক বৎসরটিতে যদি কোন নূতন ব্যবসার বা পেশা স্থাপন করা হয় তাহা হইলে ব্যবসা স্থাপনের দিন হইতে উক্ত আর্থিক বৎসরের শেষ তারিখ অবধি যে সময়টি হইবে তাহাই সাধারণভাবে উক্ত Assessment Year-এর Previous Year হইবে।

এই ক্ষেত্রে দুইভাবে Previous Year নির্ধারিত হয়—

(১) ব্যবসায়ীর (সবোক্ত ১২ মাসের) হিসাবপত্র তৈয়ারী থাকিলে এক রকম হইবে।

(২) ব্যবসায়ীর হিসাবপত্র তৈয়ারী না থাকিলে আর এক রকম হইবে।

প্রথমক্ষেত্রে করদাতার ইচ্ছা অনুসারে Previous Year-টি নির্ধারিত হইতে পারে। ইহা ব্যবসা স্থাপনের দিন হইতে ৩১শে মার্চ পর্যন্ত (অর্থাৎ পূর্ববর্তী আর্থিক বৎসরের শেষ দিন অবধি) এই সময়টিও Previous Year হইতে পারে অথবা এই সময়টি ৩১শে মার্চকে ছাড়িয়া অথ কোন পরবর্তী তারিখ অবধিও হইতে পারে। অবশ্য সময়টি ১২ মাস কালের বেশী হইতে

পারিবে না। কিন্তু এই সময়টি উক্ত Assessment Year-এর ঠিক পূর্ববর্তী আর্থিক বৎসরের শেষ দিনটি অর্থাৎ ৩১শে মার্চ তারিখটি ছাড়াইয়া গেলে উক্ত Assessment Year-এ উহার কর ধায় হইতে পারিবে না। কারণ, ঐ Assessment Year-এই ঐ ব্যক্তির প্রথম হিসাব-বৎসরের অন্ত হইয়াছে। সুতরাং উক্ত Assessment Year-এর জন্য ঐ ব্যক্তির কোন Previous Year থাকিবে না। উক্ত Assessment Year-এর পরবর্তী আর্থিক বৎসরে উক্ত ব্যক্তির কর ধার্য হইবে।

কিন্তু দ্বিতীয় ক্ষেত্রে ব্যবসায় স্থাপনের দিন হইতে ৩১শে মার্চ অবধি সময়টিকেই **আবশ্যিকভাবে** ঐ ব্যক্তির প্রথম Previous Year বলিয়া গণ্য করা হইবে।

৫। কখনও কখনও এই নূতন ব্যবসাক্ষেত্রে ব্যবসা স্থাপনের দিন হইতে কতকাল অবধি সময়কে প্রথম Previous Year বলিয়া গণ্য করা হইবে তাহা Income Tax কর্তৃপক্ষ নির্ধারণ করিয়া দেয়।

মনে কর ১৯৬৪-৬৫ সাল Assessment Year এবং “ক” ১৯৬৩ সালের ১লা অক্টোবর তারিখে একটি নূতন ব্যবসা স্থাপন করিয়াছে, ধরা যাউক কর্তৃপক্ষ ১৯৬৪ সালের মে মাসে কর ধার্য করিতে গিয়াছে। এই অবস্থায় “ক” কর্তৃপক্ষকে বলিতে পারে যে সে ব্যবসায়ের হিসাব ৩০শে সেপ্টেম্বর তারিখে (ঠিক ১২ মাস কাল অন্তে) নিষ্পত্তি করিয়া ফেলিবে। এই ক্ষেত্রে কর্তৃপক্ষ তাহার নুত্তি মানিয়া লইবে। কিন্তু যদি ১৯৬৪ সালের অক্টোবর মাসে কর ধার্য করিতে গিয়া দেখে যে ব্যবসায়ী তাহার ব্যবসায়ের হিসাব নিষ্পত্তি করে নাই তাহা হইলে ১৯৬৩ সালের ১লা অক্টোবর হইতে ১৯৬৪ সালের ৩১শে মার্চ পর্যন্ত সময়টিকেই “ক”-এর Previous year বলিয়া গণ্য করিবে। এবং ইহার পরবর্তী বৎসরগুলির ক্ষেত্রে “ক”-এর Previous Year ১লা এপ্রিল হইতে ৩১শে মার্চ—এইভাবেই চলিতে থাকিবে। কিন্তু মনে কর উক্ত ক্ষেত্রে “ক” তাহার নূতন ব্যবসায়ের হিসাব ১৯৬৪ সালের ৩০শে সেপ্টেম্বর তারিখের মধ্যেই নিষ্পত্তি করিয়া ফেলিয়াছে—এই ক্ষেত্রে “ক” ১৯৬৩ সালের ১লা অক্টোবর হইতে ১৯৬৪ সালের ৩০শে সেপ্টেম্বরের মধ্যে যে-কোন কালকেই (Period) তাহার প্রথম হিসাব-বৎসর এবং

Previous Year বলিয়া গণ্য করিতে পারে। “ক” যদি স্থির করে যে তাহার হিসাব-বৎসর ১৯৬৪ সালের ৩১শে মার্চ পর্যন্ত হইবে তাহা হইলে কতৃপক্ষ তাহাই মানিয়া লইবে এবং ১৯৬৩ সালের ১লা অক্টোবর হইতে ১৯৬৪ সালের ৩১শে মার্চ এই ৬ মাসের সময়কে “ক”-এর Previous Year বলিয়া গণ্য করিবে, এবং ১৯৬৪-৬৫ সালেই তাহার কর ধার্য করিবে।

আবার “ক” যদি স্থির করে যে তাহার হিসাব বৎসর ১৯৬৩ সালের ১লা অক্টোবর হইতে ১৯৬৪ সালের ৩০শে জুন অবধি হইবে তাহা হইলেও কতৃপক্ষ তাহাই মানিয়া লইবে। কিন্তু যেহেতু এই ক্ষেত্রে “ক”-এর হিসাব-বৎসর ১৯৬৪-৬৫ সালের Assessment Year-এ শেষ হইতেছে সেই হেতু ১৯৬৪-৬৫ সালে “ক”-এর কর ধার্য হইবে না। অর্থাৎ ১৯৬৪-৬৫ সালের Assessment Year-এর জন্য “ক”-এর কোন Previous Year থাকিবে না। উহার পরবর্তী Assessment Year-এ (১৯৬৫-৬৬ সালে) “ক”-এর কর ধার্য হইবে।

৬। যদি কোন ব্যক্তি কোন অংশীদারী কারবারের সভ্য হয়, তাহা হইলে অংশীদারী কারবারটির যাহা “Previous Year” হইবে—কারবারের আয়ের অংশের জন্য ঐ ব্যক্তির Previous Year-ও তাহাই হইবে।

৭। একই করদাতার বিভিন্ন আয় সম্পর্কে বিভিন্ন “Previous Year” থাকিতে পারে।

৮। Previous Year একবার যেরূপভাবে নির্ধারিত হয় তাহা কতৃপক্ষের অন্তিমতি ব্যতীত পরিবর্তন করা চলে না।

Q. 13. What is Previous year according to Income Tax Act ?

[C. U. M. Com. 1963, C. U. Degree Course B. Com. 1965]

Ans. Income Tax is payable on the income of the Previous Year which is also known as the Income year or Accounting year.

1. Previous Year means the financial year immediately preceding the Assessment year.

2. If the accounts of the assessee have been made up-to-date within the said financial year, the period

of 12 months ending on such date will be his Previous Year.

3. In case of person or business not falling within the above two clauses the Previous year will be such period as may be determined by the Board or by any Authority authorised by the Board.

4. In case of business or profession newly set up in the financial year immediately preceding the Assessment year, the previous year will be the period beginning with the date of setting up of business and ending with the said Financial Year.

5. In case of newly set up business or profession, when the accounts of the assessee have been made up-to-date within the said financial year, the Previous year will be the period, at the option of the assessee, ending on that date.

6. In case of newly set up business or profession the Previous year may be the period beginning with the date of setting up of business or profession and ending with the period as may be determined by the Board or by any Authority authorised by the Board.

7. But if the accounts of the assessee are made up to a date in the said Assessment year for a period not exceeding 12 months from the date of setting up of his business, then, at the option of the assessee, the Previous year will be that period for which accounts are made up.

8. In case of newly set up business or profession if the accounts of the assessee are not made up to any date even after the expiry of 12 months from the date of setting up of business, the assessee will have no option but to adopt the period from the date of setting up of the business to 31st March next following as his Previous year.

9. In the case of business or profession newly set up in the 12 months immediately preceding the said Financial year and the accounts of the assessee have been made up to a date within the said Financial year for a period not exceeding 12 months, the Previous year will be, at the option of the assessee, the period up-to-date for which accounts are made up.

10. Where the assessee is a partner in a firm, then in respect of the assessee's share in the income of the firm, his Previous year will be the period as adopted by the firm as its Previous year.

11. In respect of profits and gains from 'Life Insurance Business' Previous year will be the year immediately preceding the Assessment year for which annual accounts are required to be prepared under Insurance Act 1938 or L. I. C. Act 1956.

12. An assessee may have different Previous year in respect of separate sources of Income.

13. Previous year once adopted cannot be changed without the consent of the Income Tax Officer.

14. The Previous year cannot be for a period of more than 13 months and less than 11 months.

Illustrations

Q. 14. Find out the relevant Previous Year for the Assessment year 1965-66 in respect of the following business, whose accounting period are also given :—

- | | | |
|----------------------------|-----------------------|--|
| (i) Publishing business— | (Accounting period)— | 1st July to 30th June. |
| (ii) Jute mills— | „ | —1st October to 30th September. |
| (iii) Stationery business— | „ | —1st January to 31st December (Calendar year). |

- (iv) Cloth business—(Accounting period)—1st April to 31st March.
(Financial year).
- (v) Hotel business— „ —1st November to 31st October.
(Diwali year).
- (vi) Book-selling business „ —1st January to 31st December.

Ans. Relevant Previous year for the Assessment year 1965-66 .

- (i) Publishing business—1st July, 1963 to 30th June, 1964.
- (ii) Jute mills—1st Oct. 1963 to 30th September, 1964.
- (iii) Stationery business—1st January, 1964 to 31st December, 1964
- (iv) Cloth business—1st April, 1964 to 31st March 1965.
- (v) Hotel business—1st November, 1963 to 31st October, 1964.
- (vi) Book-selling business—1st January, 1964 to 31st December, 1964.

Q. 15. Find out the relevant Previous Year in respect of the following business newly set up on the following dates for the Assessment year 1963-64. The accounts of the business are made up for a period not exceeding 12 months.

- (i) New Textile Mill on 1st July, 1962.
- (ii) New Publishing business on 1st June, 1962.
- (iii) New Contract business on 1st October, 1961.
- (iv) New Grocery shop on 15th April, 1962.
- (v) New Cloth business on 1st November, 1962.
- (vi) New Medical Stores on 1st April, 1962.
- (vii) New Paint Shop on 1st July, 1961.

Ans. The relevant Previous year for the Assessment year 1963-64 will be as follows :—

As the accounts are made up-to-date, then at the option of the assessee :

(i) The period from 1. 7. 1962 to 31. 3. 63.

Or, he may have no Previous year for the relevant Assessment year if the accounts are made up for the period from 1. 7. 62, to 30. 6. 63.

(ii) The period from 1. 6. 62. to 31. 3. 63.

Or, he may have no Previous year for the relevant Assessment year if the accounts are made up for the period from 1. 6. 62 to 31. 5. 63.

(iii) The period from 1. 10. 61 up to a date not beyond 30. 9. 62.

(iv) The period from 15. 4. 62 to 31. 3. 63.

Or, he may have no Previous year for the relevant Assessment year 1963-64 if he adopts the period from 15. 4. 62. to 14. 4. 63.

(v) The period from 1. 11. 62 to 31. 3. 63.

Or, he may have no Previous year for the relevant Assessment year if he adopts his accounting period from 1. 11. 62. to 31. 10. 63.

(vi) The period from 1. 4. 62 up to a date not beyond 31. 3. 63.

(vii) The period from 1. 7. 61 up to a date not beyond 30. 6. 62.

In the case of (iii) and (vii) the accounts of the assessee must not have been closed on 31. 3. 62. Had it been so, the assessment would have first been made in the year 1962-63. and then those could no longer be considered as new business in the assessment year 1963-64. So it can be definitely assumed that the periods adopted by the assessee in the above two cases must have crossed the 31st day of March, 1962.

CHAPTER II

TAX-LIABILITY

Q. 16. Under what conditions an individual is treated as (i) Resident, (ii) Resident and ordinarily Resident (iii) Resident but not ordinarily Resident (iv) Non-Resident ?
[C. U. M. Com. 1963]

Or,

Explain the term "Non-Resident"

[C. U. M. Com. 1961]

Or,

Explain—'Non-Resident assessee'

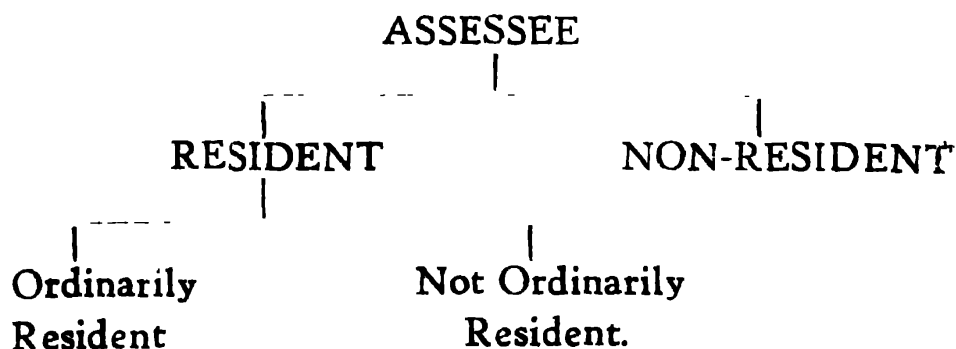
[C. U. M. Com. 1962]

ns. Resident And Non-Resident

Assesseees are classified into three categories on the basis of their residence and the tax-liability of the assessee is determined by reference to his residential status in India in the Previous Year. The three categories are as follows :—

1. Resident and Ordinarily resident ;
2. Resident but not Ordinarily Resident ; and
3. Non-Resident.

Classification of Assessee



Residential Status of an Individual :

An Individual is said to be Resident in India in any Previous year if he fulfils any of the following three conditions as per Section 6 of the Act.

1. He is in India in that year for a period or periods of 182 days or more in all :

2. He maintains or causes to be maintained for him a dwelling place in India for a period or periods of 182 days or more in all in that year, and he has been in India for 30 days or more in that year.

3. He has been within the 4 years preceding that Previous year in India for a period or periods of 365 days or more in all, and he is in India for a period or periods of 60 days or more in all in that Previous year.

The period of residence or maintenance of house need not be continuous.

An Individual who does not fulfil any of the above three conditions will be termed as **Non-Resident**.

In order to be regarded as Ordinarily Resident in India, a Resident must fulfil the following two conditions :—

(1) That he has been Resident in India under the above rules for atleast 9 out of 10 years preceding the Previous Year.

(2) That he has been in India for a period or periods of 730 days or more in all in the seven years preceding that Previous year.

A resident who does not fulfil any of the above two conditions is regarded as 'Resident but not Ordinarily Resident'.

If a person is resident in India in any Previous Year relevant to an Assessment Year in respect of any source of income, he shall be deemed to be resident in India in the Previous Year relevant to the Assessment Year in respect of each other sources of income.

Q. 17. Explain the Residential status of Hindu Undivided Family, Firm and other Association of Persons.

Ans. As per Section 6 (7) a **Hindu Undivided Family** is Resident in India in the Previous year if the control and management is situated in India either partly or wholly. A Hindu Undivided Family is to be regarded as Resident and Ordinarily Resident if the Manager or 'Karta' is Ordinarily Resident in India.

It is said to be **Non-Resident** if the control and management of its affairs is situated wholly outside India.

As per Section 6 (2) of the Act, a **Firm or other Association of Persons** is regarded as Resident in India in any Previous year if the control and management of its affairs is situated in India either wholly or partly. A Firm or other Association of Persons is said to be Ordinarily Resident if it is Resident under the above rule.

If the control and management of its affairs is situated wholly outside India, then it is regarded as **Non-Resident**. There can be nothing as Resident but not Ordinarily Resident in the case of Firm and Association of Persons.

Q. 18. When a Company is regarded as Resident and Ordinarily Resident ?

Ans. Residential status of a company :

As per Section 6 (3) of the Act, a Company is said to be Resident in India in any Previous year if—

- (1) It is an Indian Company ; or
- (2) The control and management of the affairs of the Company is situated wholly in India.

A Company is Resident and Ordinarily Resident if it is Resident in India. There can be nothing as Resident but not Ordinarily Resident in the case of a Company.

N.B. The definitions of Company and Indian Company have been given under Sections 2 (17) and 2 (26) of the

Act. A Company is said to be **Non-Resident** (i) if it is not an Indian Company, or, (ii) if the Control and management of the affairs of the Company is situated wholly outside India.

Scope of Total Income :

Assesseees are liable to pay tax on their Total Income or Total World Income.

Q. 19. Briefly state the incomes which are included in the total incomes of the assessee according to their residential status.

Or, On what income does a non-resident assessee pay income tax ? [C. U. M. Com. 1963]

The Total income of any Previous year of a Person who is a Resident includes all incomes from whatever sources these are derived and includes incomes :

(a) Which are received or deemed to be received in India in the Previous year by or on behalf of such person ;

(b) Which accrue or arise or are deemed to accrue or arise to him in India during such Previous year ; and

(c) Which accrue or arise to him outside India during such Previous year.

Resident but not Ordinarily Resident

The Total Income of any Previous Year of any person 'Resident but not Ordinarily Resident' in India includes all incomes :

(1) Which are received or deemed to be received in India in the Previous Year by or on behalf of such person ,

(2) Which accrue or arise or are deemed to accrue or arise to him in India during such year ;

(3) Which accrue or arise to him outside India during such year provided those are derived from a business controlled in India or a profession set up in India.

Non-Resident :

The Total Income of any Previous Year of a person who is a NON-RESIDENT includes all incomes (i) which are received or deemed to be received in India in the Previous Year by or on behalf of such person ;

(ii) Which accrue or arise or are deemed to accrue or arise to him in India during such year.

But income accrues or arises to him outside India during such year is excluded from his Total Income.

Q. 20. Explain the term 'Income deemed to be received'.

Ans. The following incomes shall be deemed to be received in the Previous year as per Rule 6 of Part A of the Fourth Schedule :

(1) The annual accretion in the Previous year to the credit of an employee participating in a Recognised Provident Fund to the extent of :

(a) Contribution made by the employer in excess of 10% of the salary of the employee ;

(b) Interest credited to such Fund of the employee so far as it exceeds $\frac{1}{3}$ of the salary of the employee or the amount calculated at a rate higher than the rate fixed by the Central Government i. e. 6%, whichever is higher.

(2) The transferred balance of an Un-recognised Provident Fund to a Recognised Provident Fund to the extent of employer's contribution and interest thereon.

Q. 21. Explain the term 'Income deemed to accrue or arise in India'.

Ans. The following incomes shall be deemed to accrue or arise in India :

(1) All incomes accruing or arising whether directly or indirectly through or from any—

(a) business connection in India ;

(b) property in India ;

- (c) assests or sources of income in India ;
- (d) money lent at interest and brought into India in cash or in kind ;
- (e) transfer of capital assets situated in India.
- (2) Income which falls under the head 'Salaries' earned in India ;
- (3) Income chargeable under the head 'Salaries' payable by the Government of India to a citizen of India for services outside India ;
- (4) Dividend paid by an Indian Company outside India.

N.B. But pension payable outside India to a person shall not be deemed to accrue or arise in India if he is a person as referred to in Article 314 of the constitution or a Judge of the Federal Court appointed before independence and continued his service after the commencement of the Constitution as a Judge in India.

Q. 22. Briefly state the Tax-liability of a person (In Summarised form).

Ans. The Tax-liability of Resident and Non-Resident in respect of various types of incomes may be summarised as follows :—

(1) Tax is payable by all classes of assesseees in respect of incomes received in India whether arise or accrue or are deemed to accrue or arise here or outside India ;

(2) Tax is payable by all classes of assesseees in respect of incomes which accrue or arise or deemed to accrue or arise in India whether received here or outside India ;

(3) Tax is payable only by a Resident and Ordinarily Resident in respect of incomes which accrue or arise or

deemed to accrue or arise from any source outside India, but not received in India provided the income derived from a business controlled outside India or a profession set up outside India.

(4) Tax is payable by a Resident but Not Ordinarily Resident in respect of incomes earned outside India from a business controlled in India or a profession set up in India but not received in India.

(5) Tax is not payable by any class of assessee in respect of incomes earned outside India in the past Previous Year but brought into India in the Previous Year.

N. B. As per section 220 of the Act where an assessee has been assessed in respect of income arising outside India in a country which prohibits the remittance of money to India the I. T. O. shall not treat the assessee in default in respect of that part of tax on the amount of income which by reason of such prohibition cannot be brought into India.

Income arising or accruing outside India “received” and “brought into”. Receiving of an income refers the first occasion upon which the receiver got the income under his control. But after such receipt of an income it can be remitted to various countries. So after once receiving an income it can be brought into many countries many times. The ‘receiving of an income’ and ‘the income brought into do not imply the same thing.

Incidence of Taxes on different types of Assesseees

Types of income	Resident and Ordinarily Resident	Resident but not Ordinarily Resident	Non Resident
1. Income received in India whether arises or accrues or is deemed to arise or accrue here or outside India.	Taxable	Taxable	Taxable
2. Income which accrues or arises or is deemed to accrue or arise in India whether received here or out side India.	Taxable	Taxable	Taxable
3. Income which accrues or arises or is deemed to accrue or arise from any source outside India but not received in India.	Taxable	Taxable provided the income derived from a business controlled in India or a profession set up in India.	Not Taxable
4. Income earned outside India in the past previous year but brought into India in the Previous year.	Not Taxable	Not Taxable	Not Taxable

Residence of Assessee করদাতার আবাস

করদাতার আয়কর দিবার দায়িত্ব নির্ধারিত হয় তাহার পূর্ববর্তী বৎসরের আবাস (Residence) অনুসারে। আবাস অনুসারে করদাতাকে তিন শ্রেণীতে বিভক্ত করা হয়।

১। ভারতের বাসিন্দা এবং স্বভাবতই ভারতের বাসিন্দা (Resident and Ordinarily Resident in India).

২। ভারতের বাসিন্দা কিন্তু স্বভাবতঃ ভারতের বাসিন্দা নয় (Resident but not Ordinarily Resident in India.)

৩। ভারতের বাসিন্দা নয় (Non-Resident)

নিম্নোক্ত তিনটি শর্তের যে কোন একটি পালন করিলেই কোন ব্যক্তিকে পূর্ববর্তী বৎসরে ভারতের বাসিন্দা বলিয়া গণ্য করা হয়।

১। উক্ত বৎসরে সর্ব-মোট ১৮২ দিন বা ততোধিক দিন ভারতে থাকিলে।

২। উক্ত বৎসরের সর্ব-মোট ১৮২ দিন বা ততোধিক দিনের জ্ঞাত ভারতে থাকিবার উপযুক্ত একটি বাড়ী রাখিয়া দিলে এবং সর্বমোট ৩০ বা ততোধিক দিন ভারতে থাকিলে।

৩। উক্ত বৎসরের সর্ব-মোট ৬০ দিন বা ততোধিক দিন ভারতে থাকিলে এবং উক্ত বৎসরের পূর্বের চার বৎসরের মধ্যে অন্ততঃ সর্বমোট ৩৬৫ দিন ভারতে থাকিলে।

উপরোক্ত তিনটি শর্তের কোন একটিও পালন না করিলে ঐ ব্যক্তিকে ভারতের বাসিন্দা বলিয়া গণ্য করা হয় না।

কোন ব্যক্তিকে ‘স্বভাবতই ভারতের বাসিন্দা’ বলিয়া গণ্য করিতে হইলে তাহাকে নিম্নোক্ত তিনটি শর্তই পালন করিতে হইবে।

১। পূর্বোক্ত নিয়মানুসারে তাহাকে প্রথমত ভারতের বাসিন্দা হইতে হইবে।

২। উক্ত বৎসরের পূর্বের ১০ বৎসরের মধ্যে ৯ বৎসরই উক্ত নিয়মানুসারে ভারতের বাসিন্দা থাকা চাই।

৩। উক্ত বৎসরের পূর্বের ৭ বৎসরের মধ্যে সর্বমোট ৭৩০ বা ততোধিক দিন ভারতে থাকা চাই।

কোন ভারতের বাসিন্দা যদি ২য় বা ৩য় এই দুইটির কোনও একটি শর্ত পূরণ না করে তাহা হইলে তাহাকে ভারতের বাসিন্দা বলিলেও “স্বভাবতই ভারতের বাসিন্দা নয়” বলিয়া গণ্য করা হয়।

হিন্দু অবিভক্ত পরিবার—যদি অন্তত আংশিকভাবেও কোন হিন্দু অবিভক্ত পরিবারের নিয়ন্ত্রণ ও ব্যবস্থাপনা ভারতে থাকিয়া করা হয় তাহা হইলে উক্ত পরিবারকে “ভারতের বাসিন্দা” বলিয়া গণ্য করা হয়। কিন্তু যদি পরিবারটির নিয়ন্ত্রণ ও ব্যবস্থাপনা সম্পূর্ণভাবে ভারতের বাহিরেই থাকে তাহা হইলে উক্ত পরিবারকে “ভারতের বাসিন্দা নয়” বলিয়া ধরা হয়।

এইরূপ কোনও হিন্দু অবিভক্ত পরিবারে “কর্তা” বা ম্যানেজার যদি “স্বভাবতই ভারতের বাসিন্দা” হয় তাহা হইলে উক্ত পরিবারটিকেও “স্বভাবতই ভারতের বাসিন্দা” বলিয়া ধরা হয়, তাহা না হইলে অর্থাৎ কর্তা যদি “স্বভাবতই ভারতের বাসিন্দা না হয়” তাহা হইলে উক্ত পরিবারটিকে ভারতের বাসিন্দা বলিয়া ধরা হইলেও “স্বভাবতই ভারতের বাসিন্দা নয়” বলিয়া ধরা হইবে।

কোনও অংশীদারী কারবার বা অন্য কোনও সমিতির নিয়ন্ত্রণ ও ব্যবস্থাপনা যদি অন্ততঃ আংশিকভাবেও ভারতে থাকিয়া করা হয় তাহা হইলে উক্ত অংশীদারী কারবার বা সমিতিতে “ভারতে স্থিত” বলিয়া গণ্য করা হয়।

কোন যোঁথ কোম্পানীকে “ভারতেই স্থিত” বলিয়া গণ্য করা হয়, যদি :—

- (১) উহা ভারতীয় কোম্পানী হয়, অথবা
- (২) উহার ব্যবস্থাপনা ও নিয়ন্ত্রণ সম্পূর্ণভাবে ভারতেই করা হয়।

অন্য সকল ব্যক্তিকে সকল ক্ষেত্রেই ভারতের বাসিন্দা বলিয়া ধরা হইবে যদি না উহার ব্যবস্থাপনা ও নিয়ন্ত্রণ সম্পূর্ণভাবে ভারতের বাহিরেই অবস্থিত থাকে।

কোম্পানী, অংশীদারী কারবার বা সমিতিগুলিকে “ভারতে স্থিত” বলিয়া গণ্য করিলে উহাদিগকে “স্বভাবতই ভারতে স্থিত” বলিয়া ধরিয়া লইতে হইবে।

ILLUSTRATIONS

Q. 23. Find out the residential status of the following persons under the Income-Tax Act for the Assessment Year 1965-66.

(a) Mr. Longman, for the first time, came to India from U. K. on 30th June, 1958. He remained here for a

continuous period of 3 years and proceeded to Australia on 1st July, 1961. He came back to India on 1st April, 1962 and stayed here till 31st July, 1963 when he returned to U. K. He again came back to India as an employee of a British concern on 31st January, 1965.

(b) Sri K. Ghose, a resident of West Bengal left for U.S.A. for higher studies on 1st August, 1961. He came back to Calcutta on a casual visit for a week on 20th Dec. 1962 and again on 20th December, 1963. He however, maintained a house in Calcutta for him for dwelling purpose during the entire period from 20th December, 1962 to 30th December, 1964. He stayed in his house maintained in Calcutta during his two casual visits to India. During the year ended 31st March, 1965 he did not come to India at all. Would it make any difference if Sri Ghose stayed in India for a week during the year ended 31st March, 1965.

(c) Indian Textile Agency Co Ltd, an Indian company, carries on business in India as well as in South Africa. The control and management of its South African business was wholly situated in India during the year ended 31st March, 1965. The income accruing or arising in South Africa in that year was much larger than that arising or accruing to its business in India.

[Q. prepared according to Q. of C. A. Final, 1957]

Ans. (a) The previous year for the Assessment Year 1965-66 will be the period from 1st April, 1964 to 31st March, 1965. The residential status of Mr. Longman is to be determined for the above previous year. The following analysis will make it clear.

He stayed in India :—

In 1958-59	from 30-6-58 to 31-3-59	= 275 days
In 1959-60	from 1-4-59 to 31-3-60	= 366 „
In 1960-61	from 1-4-60 to 31-3-61	= 365 „

In 1961-62 from 1-4-61 to 30-6-61 = 91 days
 In 1962-63 from 1-4-62 to 31-3-63 = 365 „
 In 1963-64 from 1-4-63 to 30-7-63 = 121 „
 In 1964-65 from 31-1-65 to 31-3-65 = 60 „

From the above analysis it is found that Mr. Longman has been in India for 60 days in the previous year (1964-65) and more than 365 days during the four years preceding that previous year. So he is considered as a **Resident of India.**

To become resident and ordinarily resident Mr. Longman has to satisfy other two conditions of which the following is one :—(1) Must be a resident for 9 years in 10 years preceding to the previous year. Mr. Longman fails to fulfill above condition as he came to India for the first time only 6 years before the previous year.

Therefore, Mr. Longman is **resident but not ordinarily resident** of India for the assessment year 1965-1966.

(b) The previous year for the assessment Year 1965-66 will be the period from 1st April 1964 to 31st March 1965. The residential status of Sri Ghose will be as follows :—
 Sri Ghose was in India :

In 1961-62 from 1-4-61 to 30-7-61 = 121 days
 In 1962-63 from 20-12-62 to 26-12-62 = 7 days
 In 1963-64 from 20-12-63 to 26-12-63 = 7 days
 In 1964-65 he was not in India even for a single day.

From the above it is found that Sri Ghose was not in India for a single day, not to speak of 30 days, during the previous year. Although he maintained a dwelling house in the previous year for a period of more than 182 days, but he has not fulfilled the other condition, namely, the stay in India for the minimum period of 30 days.

Therefore, Sri Ghose will be treated as a '**Non Resident**' as per Section. 6 (1) of the Income Tax Act.

His casual visit to India for a week during the year ended 31st March, 1965 would not make any difference in his residential status, because 'stay in India' for a minimum period of 30 days is required.

(c) The company will be considered as a Resident in the previous year as per Section 6 (3) because it fulfills the following conditions to be treated as resident,

(i) It is an Indian company.

(ii) The control and management of its affairs is situated wholly in India.

Fulfilment of any of the above conditions is sufficient to make a company a resident of India. A company is said to be resident and ordinarily resident if it is resident in India.

Q. 24. Find out the residential status of the following persons under Indian Income Tax Act for assessment Year 1965-66.

(a) Sri. D. S. Mazumder, a citizen of India, left India for the 1st time for U. K. for business purposes on 6th August, 1964. He came back to India on 12th June, 1965. He, of course, maintained a dwelling house at Durgapur during the entire period of absence from India.

(b) One Chaudhury family, an Hindu Undivided Family, carries on a Tea-export business situated in India, Ceylon and Japan. The business of Ceylon and Japan is looked after by the seniormost member of the family. The seniormost member is the 'Karta' of the family. During the previous year 'Karta' went to Japan and Ceylon once for a week in each country.

In every other preceding previous year he did so.

(c) Mr. Gordon came from U. S. A. for the 1st time to India on 1-8-64 and started on a contract business but closes his books of accounts after the contract is comple-

ted on 15th Oct. 1964, and his profit on contract-business crossed the taxable limit. On 1st November he was appointed as officer of an Indian company and continued his service till the date of assessment.

Ans. (a) During the previous year (1964-65) Sri Mazumder had been in India,

from 1-4-64 to 5-8-64 = 127 days.

He, of course, maintained a dwelling house in India for more than 182 days.

Sri. Mazumder, therefore, will be treated as a resident in India as per Section 6 (1), because he fulfills the condition.

(i) 60 day's stay in India.

(ii) Maintenance of a dwelling house in India for 182 days.

As Sri Mazumder for the 1st time proceeded to U. K. he was naturally in India during preceding previous year. So, (i) he was resident in India for 9 years in 10 years preceding that previous year.

And (ii) he was in India for more than 730 days during the 7 years preceding that previous year.

Therefore, Sri Mazumder is a resident and ordinarily resident in India during the previous year 1964-65.

(b) The Chaudhury family carries on business in India. and outside India. But the business of this H. U. F. is controlled and managed in India. So, under Section 6 (3) this Chaudhury family is a resident in India.

'Karta' of this family remains out of India only for two weeks every year. Therefore, 'Karta' is a resident and ordinarily resident in India as he fulfills all the conditions to become resident and ordinarily resident in India namely, 182 days' residence in India, resident for 9 years out of

10 preceding previous year and 730 days' residence in 7 preceding previous years.

As the 'Karta' of this H.U.F. is a resident and ordinarily resident, so this H.U.F. is also regarded as resident and ordinarily resident.

(c) Mr. Gordon closed his books of account of his new business for the period from 1.8.64 to 15.10.64. He has the option to do so. So his previous year will be from 1.8.64 to 15.10.64. Had he left India after the closing of his business he would be regarded as non-resident because his stay in India would be then for 76 days (from 1.8.64 to 15.10.64) i.e. for less than the required minimum number of 182 days. But he took a job and remained in India for entire remaining period of the previous year which is more than 182 days. So he is a resident for his salary-income for the previous year (1964-65). He is a resident but not ordinarily resident in India as he for the first time came to India during the previous year. Again, as per Section 6 (5) Mr. Gordon will be treated as a resident in India in respect of his business income once he has become a resident in India in respect of any other sources of income (salary-income).

Q. 25. F. Fox came to India for the first time on 1st April 1959. Under what residential status will he fall during the previous year ended 31st March, 1964. under the Income Tax Act, 1961 ? [C. U. M. Com 1964.]

Ans. In the previous year 1963-64 his stay in India was for 365 days. So F. Fox is a resident in India as the period exceeds the minimum period of residence of 182 days. But he came to India for the first time in April 1959. So he cannot be treated as resident for 9 years out of 10 years preceding to the previous year, 1963-64. Therefore Mr. Fox is a "resident but not ordinarily resident in India."

Q. 26. What will be the residential status of Mr. Lloyds, British citizen, in defferent previous years the period of which is counted from 1st April to 31st March next every year :—

(i) He came to India for the first time on 1st February, 1951 and left India on 20th July, 1951.

(ii) Again he came back on 1st January, 1952 and left on 5th April, 1952.

(iii) He came back to India on 30th December, 1953 and left India on 15th November, 1954.

(iv) He arrived on 5th March, 1955 and left on 1st August, 1955,

(v) He came back on 16th July, 1956, and left on 4th April, 1957 and he maintained a dwelling house for the period from 16th July, 1956, to 4th April, 1957.

(vi) He came back on 6th August, 1957 and left India on 15th March, 1958.

(vii) He returned to India on 15th Oct, 1958 and left on 1st November, 1959.

(viii) He came back on 1st January, 1960 and left on 25th April, 1960,

(ix) He arrived on 16th July, 1960 and left on 31st May, 1961.

Ans. Mr. Lloyds remained in India during different previous years as follows :—

Previous year	Stay	Number of days
(i) 1950-51	from 1-2-51 to 31-3-51	= 59
(ii) 1951-52	from 1-4-51 to 19-7-51	= 110
	and from 1-1-52 to 31-3-52	= 91 } = 201
(iii) 1952-53	from 1-4-52 to 4-4-52	= 4
(iv) 1953-54	from 30-12-53 to 31-3-54	= 91
(v) 1954-55	from 1-4-54 to 14-11-54	= 228
	and from 5-3-55 to 31-3-55	= 27 } = 255
(vi) 1955-56	from 1-4-55 to 31-7-55	= 122
(vii) 1956-57	from 16-7-56 to 31-3-57	= 259
	from 16-7-56 to 31-3-57	= 259 (House)
	from 1-4-57 to 3-4-57	= 3
	and from 6-8-57 to 14-3-58	= 221 } 224
(viii) 1957-58	and Dwelling from 1-4-57 to 3-4-57	= 3 (House)
	house	
(ix) 1958-59	from 15-10-58 to 31-3-59	= 167
(x) 1959-60	from 1-4-59 to 30-10-59	= 213
	and from 1-1-60 to 31-3-60	= 91 } 304
(xi) 1960-61	from 1-4-60 to 24-4-60	= 24
	and from 16-7-60 to 31-3-61	= 259 } 283
(xii) 1961-62	from 1-4-61 to 30-5-61	= 60

Mr Lloyds's residential status is as follows in different previous years. He cannot be considered a resident and ordinarily resident before the previous year 1959-60 i.e. 10th previous year after his first arrival to India.

In 1950-51—His stay in India is only for 59 days which falls short of the required minimum of 182 days. He has no dwelling house in India in that year. So he is a **non-resident** as per Section 6 (1).

In 1951-52—His stay in India for 201 days exceeds the required minimum. So he is a **resident**.

In 1952-53—His stay in India is only for 4 days. So he is a **non-resident**.

In 1953-54—His stay in India is for 91 days. During the preceding 4 years his stay in India falls short of the required minimum of 365 days. So he is a **non-resident**.

In 1954-55—His stay for 255 exceeds required minimum number of days. So he is **resident**,

In 1955-56—His stay for 122 days, although falls short of the required minimum of 182 days but during 4 year preceding to that previous year his stay in India exceeds the required number of 365 days. So he is a **resident**.

In 1956-57—His stay for 259 days exceeds the required minimum. So he is a **resident**.

In 1957-58—**Resident** for the same reason as above.

In 1958-59—His stay is only for 167 days, but his stay in the 4 years preceding to that year exceeds the required minimum of 365 days. So he is a **resident**.

In 1959-60—His stay is for 304 days. So he is a **resident**.

In 1960-61—His stay is for 283 days. So he is **resident**.

In the 10 years preceding this previous year 1960-61, he was resident for 7 years only. So he is a resident but not ordinarily resident in this previous Year. Naturally he is also regarded as resident but not ordinarily resident as in other preceding previous years.

In 1961-62—His stay is only for 60 days and but stay in 4 years preceding to this year exceeds the required minimum number of 365 days. So he is a resident as per Section 6 (1)

In this year also he is a “resident and not ordinarily resident” because in the preceding 10 years he was resident for 8 years. Nine years’ residence is required.

Q. 27. Find out the total income of Sri A. K. Roy Chaudhury in the following cases,

- (i) if he is resident and ordinarily resident,
- (ii) if he is resident but not ordinarily resident,
- (iii) if he is non-resident.

For his income during the previous year 1963-64 :—

- (a) his salary earned and received in India Rs. 12,000.
- (b) he earned an income of Rs. 15000 from a business situated in Rangoon but controlled in India. Out of this income only Rs. 6000 were remitted to India.
- (c) he earned an income of Rs. 13000 from a business situated in Paris and not controlled in India.
- (d) he earned an income of Rs. 2000 in the year 1958 from a company situated and controlled in London but remitted to India during the previous year.

Ans.

Income for the previous year ended on 31. 3. 64.	Resident and ordinarily resident	Resident but not ordinarily resident	Non resident
Indian Income			
Salary	12000	12000	12000
Foreign Income			
from Rangoon business (Remitted)	6000	6000	Not taxable
From Paris business	13000	Not taxable	
From Rangoon business (unremitted)	9000	9000	"
From London business (income of past previous year)	Not Taxable	Not Taxable	"
Total income	40000	27000	12000

CHAPTER III
HEADS OF INCOME—(SALARY)

Q. 28. What are the different heads of income under Income Tax Act ? Add a very short note on each item.

[*C. U. Degree Course B. Com. 1963. '65*]

Ans. Save as otherwise provided by this Act, all income shall, for the purpose of charge of Income Tax and computation of total income, be classified under the following heads of Income.

A—Salaries.

B—Interest on Securities.

C—Income from House Property.

D—Profits and gains of Business or Profession,

E—Capital gains.

F—Income from other Sources.

[Short notes on each item of income have been discussed later.]

Q- 29. What are the incomes that are chargeable under the head “Salaries” according to Income Tax Act.

Ans. The following incomes shall be chargeable to Income Tax under the head ‘Salaries’.

(a) Any salary due from an employer or a former employer to an assessee in the Previous Year, whether paid or not ;

(b) Any salary paid and allowed to him in the Previous Year by or on behalf of any employer or a former employer though not due or before it becomes due to him ;

(c) Any arrears of salary paid or allowed to him in the previous Year by or on behalf of an employer or a former

employer if not charged to Income Tax for any earlier Previous Year.

Salary means and includes :—

- (i) Wages ;
- (ii) any annuity or pension ;
- (iii) any gratuity, commission, perquisite, profits in lieu of salary ;
- (iv) any fees ; or any addition to any salary or wages ;
- (v) any advance of salary ;
- (vi) the annual accretion to the balance of Recognised Provident Fund at the credit of any employee to the extent of
 - (a) the contribution made by the employer exceeding 10% of the salary of the employee ;
 - (c) the interest credited to such Fund in excess of $\frac{1}{8}$ of the salary of the employee or at the rate in excess of 6% p. a. (whichever is higher).
- (vii) the transferred balance of an un-recognised Provident Fund to a recognised Provident Fund to the extent of the employer's contribution and interest thereon.
- (viii) when an employee retires from his service but he has not rendered a continuous service for 5 years or more, the accumulated balance (to the extent of employer's contribution and interest thereon) of a Recognised Provident Fund due to the employee on his retirement will also be included in his total income when it becomes due, unless such retirement is caused by the employee's ill-health or for any other causes over which the employee has no control.

IMPORTANT POINTS IN CONNECTION WITH SALARY :

(1) The relationship of employer and employee must exists between the payer and the payee ;

(2) The term 'Employer' has a much wide sense and includes Government, Local Authority, a company and any other Public Body, Association of Persons, Foreign Government and any Private Employer ;

(3) Salary paid in advance and idcluded in the total income in any Previous Year of any person shall not be included in the total income of the person when the salary becomes actually due ;

(4) Place of ascrual :

(a) Income from salary arises at the place where the service is rendered :

(b) Pension payable to a retired person for the service rendered in India will be considered as income arisen in India.

Exception to this rule : Income shall not be deemed to arise in India when any pension becomes payable outside India to a person permanently residing outside India if the person was appointed by the Secretary to the State or appointed before the independence of India as a Judge of the Federal Court or of a High Court, continues to serve on or after the commencement of the Constitution as a Judge in India.

(5) Any salary paid to a citizen of India by the Government of India for the services rendered outside India will be deemed to arise in India.

(6) Tax is deducted in respect of salary income at source.

Q. 30. Explain "Forgoing of Salary" and "Surrender of Salary"

Ans. Forgoing and Surrender of Salary :

These two terms are not identical from the income tax point of view. Forgoing of salary by an employee is taxable as the salary in this case becomes due to the employee ; it simply means the 'application of Income Due'.

Voluntary surrender of salary is exempted from Income Tax. The salary surrendered is to be excluded from the employee's salary income. Salary in this case does not become due to the employee. Any person desiring to surrender a part of his salary shall have to make a declaration in duplicate and shall submit one copy to the disbursing authority of the salary and one to the I.T.O. Such declaration must reach the Authority before the salary becomes due.

Any portion of salary if withheld by any order of a court is liable to tax.

Q. 31. Explain the following Income tax terms :—

(a) Perquisites. (b) Profit in lieu of Salary.

[C. U. M. Com. 1960, 1961, 1962, 1963 C.U. Degree course.
B. Com. 1964.]

✓ Perquisites :—

Ans. The word 'Perquisite' means any benefit either in cash or in kind given by the employer to the employee in addition to his salary or wage. It may be in the form of extra casual emolument, lumpsum bonus, allowance for education of the dependants, allowance for motor car etc.

As per Section 17 (2) of the Act, perquisites include :

(a) value of rent free accommodation provided to the assessee by his employer :

(b) value of any concession in the matter of rent in respect of any accommodation provided to the assessee by his employer ;

(c) value of any benefits or amenities granted or provided free of cost or at a concessional rate by any Company in the following cases—

- (i) to an employee who is a Director of the Company ;
- (ii) to an employee who is a person having substantial interest in the Company ;
- (iii) To any other employee whose income under the head 'Salary' (exclusive of the value of benefits and amenities) exceeds Rs. 18,000/-

(d) any sum paid by the employer in respect of any obligation which, but for such payment, would have been payable by the assessee :

(e) any sum payable by the employer whether directly or through a Fund, other than Recognised Provident Fund or an approved Super Annuation Fund to effect an assurance on the life of the assessee or to effect a contract of annuity.

N. B. : A person will be said to have 'substantial interest' in the company if he is the beneficial owner of at least 20% of the Equity Shares of the Company.

(f) Value of the perquisites is liable to tax in the hand of an employee.

Value of amenities not to be included in the Salary income of any employee.

(1) Free medical facilities to the employee or to any member of his family including reimbursement of reasonable medical expenses ;

(2) wage paid by the employer to a gardener employed for the maintenance of the house belonging to the employee but occupied by the assessee ;

(3) Refreshment (but not lunch) given during office hours in the office premises ;

(4) Recreational facilities for the employees.

Profits in Lieu of Salary :

As per Section 17 (3) of the Act, Profits in lieu of Salary include the following :—

(1) An amount of any compensation due to or received by an assessee from his employer or from his former employer—

(a) at the termination of his employment ;

(b) in connection with the termination of his employment ;

(c) in connection with the modifications of the terms and conditions of his employment.

It is immaterial whether such compensation is given by the employer either voluntarily or under any obligation as per terms and conditions of service.

(2) Compensation for any loss of employment though a casual receipt is taxable as salary under this section.

(3) A sum received in computation of pension though considered as a casual receipt is taxable under the above provision.

(4) Any sum paid by an employer (present or former) to his employee not as a token of appreciation of his service but as a personal gift or as a token of personal respect would not be taxable under the above provision.

(5) Any payment due to or received by the assessee from an employer or from a former employer or from an Unrecognised Provident Fund to the extent to which it does not consist of the contribution by the assessee or interest thereon.

Q. 32. How the perquisites are valued ?

Ans.

As per rule 3 of the Income Tax Rules of 1962, the perquisites are valued as follows :—

(1) Rent free accommodation :

When an employee is provided with a free quarter the value of this rent free accommodation will be taken as follows :—

- (a) 10% of the salary if the house is unfurnished ; and
- (b) $12\frac{1}{2}\%$ of the salary if the house is furnished.

In certain cases, the employee is provided with quarter the rent of which is paid by the employer. In these cases, the value will be determined as follows :

(a) When the fair-rent or the rent paid by the employer exceeds 20% of the salary of the employee, then the value will be :

10% + excess over 20% of the salary and in respect of houses in Calcutta, Bombay and Delhi 10% + excess over 30% of the salary in case of unfurnished quarters.

(b) When the fair-rent or the rent paid by the employer exceeds 25% of the salary of the employee, then the value will be :

$12\frac{1}{2}\%$ + excess over 25% of the salary and in respect of houses in Calcutta, Bombay and Delhi $12\frac{1}{2}\%$ + excess over $37\frac{1}{2}\%$ of the salary in case of furnished quarters.

Suppose that the salary of Mr. X who occupies an unfurnished rent-free quarter, is Rs. 4000/- and the fair-rent paid by his employer is Rs. 1200/-.

In this case the value of rent-free quarter will be calculated as under :

$$\begin{array}{rcl}
 10\% \text{ of Rs. } 4000/- & = & \text{Rs. } 400 \\
 \text{add excess over } 20\% \text{ of Rs } 4000 & = & \text{Rs. } 400 \\
 \checkmark \quad (1200 - 800) & & \text{---}
 \end{array}$$

$$\text{Value of the rentfree quarter} = \text{Rs. } 800$$

If the quarter is furnished in the above case, the value will be as under :

$$\begin{array}{rcl}
 12\frac{1}{2}\% \text{ of Rs. } 4000/- & = & \text{Rs. } 500 \\
 \text{add excess over } 25\% \text{ of Rs. } 4000/- & & \\
 (1200 - 1000) & = & \text{Rs. } 200 \\
 \text{Value of the rentfree quarter} & = & \text{Rs. } \underline{700/-}
 \end{array}$$

Value of residential accommodation at concessional rate will be made on the above basis, and from that value rent paid by the employee shall be deducted.

If the fair-rent does not exceed 20% and 25% or in case of Calcutta, Bombay and Delhi houses 30% and 37½% in respect of unfurnished and furnished quarters, as the case may be, then the value of such accommodation will be 10% and 12½% in the case of unfurnished and furnished quarters respectively.

N. B. Salary for the purpose of calculation of this rent free accommodation includes :

- ✓(a) pay,
- ✓(b) allowances,
- (c) bonus or commission, payable monthly or otherwise but does not includes the following :
 - ✓(i) Dearness Allowance or Dearness Pay unless it enters into the computation of super annuation or retirement benefit of the employee ;
 - ✓(ii) employer's contribution to the Provident Fund A/c of the employee ;
 - ✓(iii) the amounts of allowances which are exempted from the rate of tax, such as Entertainment Allowance.

Motor car :

When a car is provided by an employer to an employee for his private or personal use, the valuation will be as follows :—

- (a) The sum actually expended by the employer for the maintenance and running of the car ;
- (b) normal wear and tear of the car.

But when the car provided by the employer to the employee is used partly for private use and partly for office use, then the valuation will be as follows :—

(a) the amount of expenses plus normal wear and tear which can be attributed to his private use.

But when the value of the car cannot be determined on the above basis then it will be determined as follows :—

	When expenses fully borne by the Employer	When expenses fully borne by the Employee
Where the horse power rating of the car does not exceed 16 or the cubic capacity of the engine does not exceed 1·88 litres.	Rs. 150 per month	Rs. 60 per month
When the horse power rating of the car exceeds 16 or the cubic capacity of the engine exceeds 1·88 litres.	Rs. 250 per month	Rs. 100 per month

Gas, Electricity and Water :

The value of free supply of Gas, Electricity and Water to the employee, will be determined as the actual amount paid by the employer on that account to the Agencies supplying these. But when the supply of all these are made from sources owned by the employer and not purchased from any outside Agencies, the value of these will be taken as 'Nil'

Example :

The value of electricity supplied free of cost to the employees of an Electricity Generating Company from its own source, will be taken as 'Nil',

Education :

The value of free education facilities provided by the employer for any member of the family of the employee shall be determined by the actual amount of expenses incurred by the employer on that account. But where the educational institution is maintained and run by the employer himself, the value of the benefit in such case shall be determined on the basis of reasonable cost of such education in similar institution in the locality or near locality.

Free Transport :

The value of transport provided free of cost or at concessional rate by an employer engaged in the business of transport to his employees shall be taken as 'Nil'.

Other Benefits :

The value of other benefits provided by the employer to his employees shall be so determined as the I.T.O thinks proper and reasonable.

Q. 33 What are the various deductions that are allowed in the computation of net income under the head - Salaries ? Write short notes on them.

[C. U. M. Com, 1964]

Ans. Admissible Deductions :

Under section 16 of the Act, the income chargeable under the head 'salary' shall be computed after making the following deductions :—

(i) Cost of books and publications :

Any amount not exceeding Rs. 500/- expended by the assessee on the purchase of books and other publications necessary for the purpose of his duties.

(ii) Entertainment Allowance :

In certain cases certain employees, both Government and Non-Government, receive an allowance in the name of

'Entertainment Allowance'. This allowance is given to such employees for entertaining the persons in which the employer is interested. Therefore, the expenses for entertaining is considered as the expense of the employer. So when an employee is given such Entertainment Allowance the same should not be regarded as his income. Therefore, it is deducted from his salary in the following manner :

In the case of a Government servant, a sum equal to $\frac{1}{5}$ th of his salary (exclusive of any allowances, benefits, or other perquisites) or Rs. 5000/- or the actual sum paid to the servant, whichever is the least.

In case of employee other than Government Servant who is in receipt of such 'Entertainment Allowance' and has been continuously in receipt of such allowance regularly from his present employer before 1st April 1955, the amount of such Entertainment Allowance received by the assessee from his present employer or a sum equal to $\frac{1}{5}$ th of his salary (exclusive of any allowances, benefits or other perquisites) or Rs. 7500/- whichever is the least provided the sum is received regularly.

Tax on Profession :

Any amount paid by the assessee in respect of tax on profession, trade, callings or employment levied under any State Acts, shall be deducted from Income.

Conveyance owned by the Employee :

Where the assessee is not in receipt of conveyance allowance whether as such, or as a part of his salary and owns a conveyance which is used for the purpose of his employment, the estimated expense plus its normal wear and tear as may be determined by the I.T.O. shall be deducted from his income.

Other expenses Incurred as per Condition to his service :

Any amount actually expended by the assessee, not becoming an amount expended on the purchase of books or other publications, or on entertainment allowance or on the maintenance of a conveyance, which, by the conditions of his service, he is required to spend out of his remuneration wholly, necessarily and exclusively in the performance of his duties shall be deducted from his income.

House Allowance (Section 10 (13A) amended)

The amount which is not to be included in the total income of an assessee in respect of the special house allowance referred to in clause (13A) of section 10 shall be :—

(a) The actual amount of such allowance received by the assessee in respect of the relevant period ;

Or,

(b) The amount by which the expenditure actually incurred by the assessee in payment of rent in respect of residential accommodation occupied by him exceeds one-tenth of the amount of salary due to the assessee in respect of the relevant period ;

Or,

(c) An amount equal to—

(i) Where such residential accommodation is situated in Bombay, Calcutta, Delhi or Madras, one-fifth of the amount of salary due to the assessee in respect of the relevant period, and (ii) Where such residential accommodation is situated at any other place, one-tenth of the amount of salary due to the assessee in respect of the relevant period,

Or,

(d) A sum calculated at the rate of Rs. 300/- p. m. in respect of the relevant period,

Whichever is the least.

Explanation in this rule :—

(i) ‘Salary’ shall have the meaning assigned to it in clause (h) of rule 2 of Part A of the Fourth Schedule.

(ii) “Relevant period” means the period during which the said accommodation was occupied by the assessee during the previous year.

Here “Salary” includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites.

বেতন (Salary)

বেতন সম্পর্কে বিশেষ জ্ঞাতব্য বিষয়গুলি :—

১। বেতনদাতা ও বেতন-গ্রহীতার মধ্যে নিয়োগকর্তা ও কর্মচারীর সম্পর্ক থাকিবে।

২। বর্তমান অথবা পূর্বের নিয়োগকর্তা অথবা তাহাদের পক্ষ হইতে অন্য কোন ব্যক্তি কর্তৃক কোন বেতন প্রদান করা হইলে বা মঞ্জুর হইলেই উহাকে “বেতনের আয়” বলিয়া ধরা হইবে। এই বেতন পাওনা হইলে বা বেতন পাওনা হইবার পূর্বে বেতন পাইলেও উহাকে “বেতন আয়ের” তালিকাভুক্ত করা হইবে।

৩। বকেয়া বেতনের উপর পূর্বে কর প্রদান করা না থাকিলে উহাকে বেতনের আয়ের তালিকাভুক্ত করা হয়।

৪। এই বেতন বর্তমান বা পূর্বের নিয়োগকর্তা হইতে পাওয়া যাইতে পারে।

৫। বেতন প্রকৃতপক্ষে পাওয়া হউক বা না হউক, বেতন পাওনা হওয়া মাত্রই উহাকে বেতনের আয় বলিয়া ধরা হইবে।

৬। বেতন পাওনা হওয়ার পূর্বে অগ্রিম হিসাবে বেতন পাইলেও উহাকে বেতনের আয় বলিয়া ধরা হইবে।

৭। সাধারণত যেখানে কর্মস্থল সেইখানেই বেতন পাওনা হয় বলিয়া ধরা হয়।

৮। ভারতে কাজের জন্য কোন অবসরপ্রাপ্ত ব্যক্তিকে প্রদেয় অবসর-বৃত্তি ঐ ব্যক্তির ভারতে বেতনের আয় বলিয়া ধরা হইবে। হাইকোর্ট বা ফেডারেল কোর্টের জজদের ক্ষেত্রে এই নিয়মের কিছু ব্যতিক্রম হয়।

৯। ভারতের বাহিরে কাজের জন্য কোন ভারতীয় নাগরিককে ভারত সরকার যে বেতন দিয়া থাকে তাহা উক্ত ব্যক্তির ভারতীয় আয় বলিয়া ধরা হয়।

“বেতনের উপরি পাওনা” (Perquisites)—বেতনের উপরি পাওনার আয়কে বেতনের আয়ের অন্তর্ভুক্ত করা হয়। উহার মূল্যায়নের পদ্ধতি নিম্নে প্রদত্ত হইল :—

বিনা ভাড়ায় বাড়ী (Free quarter)

কর্মচারী যখন বিনা ভাড়ায় বাড়ী পাইয়া থাকে তখন ঐ বাড়ীর আনুমানিক ভাড়া তাহার বেতনের আয়ের সাথে যুক্ত হয়।

✓ (১) বাড়ীটি আসবাবপূর্ণ (Furnished) হইলে কর্মচারীর বেতনের ২৩% ঐ বাড়ীর আনুমানিক ভাড়া।

✓ (২) বাড়ীটি আসবাবশূন্য (unfurnished) হইলে কর্মচারীর বেতনের ১০% ঐ বাড়ীর আনুমানিক ভাড়া।

অনেক ক্ষেত্রে নিয়োগকর্তাই (Employer) কর্মচারীর বাড়ীর ভাড়া বাড়ীর মালিককে সরাসরি প্রদান করিয়া থাকে। এই ক্ষেত্রে সম্পূর্ণ বাড়ীভাড়াই কর্মচারীর বেতনের আয়ের সঙ্গে যুক্ত হয় না। যতটুকু যুক্ত হয় নিম্নে তাহার হিসাব দেওয়া হইল :—

(১) আসবাবশূন্য বাড়ীর ক্ষেত্রে

✓ (ক) যদি এই প্রদত্ত বা গ্রায্য ভাড়া কর্মচারীর বেতনের ২০% এর অধিক হয়—তাহা হইলে বেতনের ১০%+(প্রদত্ত বা গ্রায্য বাড়ী ভাড়া—বেতনের ২০%)

(খ) যদি এই প্রদত্ত ভাড়া কর্মচারীর বেতনের ২০% বা তাহার কম হয় তাহা হইলে বেতনের ১০% মাত্র কর্মচারীর বেতনের আয়ের সঙ্গে যুক্ত হইবে।

(২) আসবাবপূর্ণ বাড়ীর ক্ষেত্রে :—

(ক) যদি এই প্রদত্ত বা গ্ৰায্য ভাড়া কর্মচারীর বেতনের ২৫% এর বেশী হয় তাহা হইলে তাহার বেতনের ১২½% + (প্রদত্ত বা গ্ৰায্য ভাড়া - বেতনের ২৫%) তাহার বেতনের আয়ের সঙ্গে বাড়ীভাড়া হিসাবে যুক্ত হইবে।

(খ) যদি এই প্রদত্ত ভাড়া কর্মচারীর বেতনের ২৫% বা উহার কম হয়, তাহা হইলে কেবলমাত্র বেতনের ১২½% তাহার বেতনের আয়ের সঙ্গে যুক্ত হইবে।

কলিকাতা, বোম্বাই, দিল্লী বা মাদ্রাজের বাড়ীর ক্ষেত্রে উপরোক্ত ২০% ও ২৫% এর পরিবর্তে যথাক্রমে ৩০% ও ৩৭½% এর উপর উপরোক্ত হিসাব করিতে হইবে।

যে “বেতনের” উপর এই শতকরা হিসাব করা হইবে তাহা মূল বেতন, বোনাস, কমিশন, এবং অন্যান্য ভাড়া লইয়া হিসাব করা হয়। তবে এই “বেতনের” সঙ্গে মহার্ঘ ভাতা যুক্ত হয় না কিন্তু অবসর কালীন সুযোগ সুবিধা হিসাব করিবার জন্ত যদি এই মহার্ঘ ভাতা বেতনের সঙ্গে যুক্ত হয় তাহা হইলে অবশ্য উক্ত “বেতনের” সঙ্গে ইহাও যুক্ত হইবে।

ইহা ছাড়া যে সকল ভাড়া ও আয় আয়কর মুক্ত তাহা উক্ত “বেতনের” সঙ্গে যুক্ত হইবে না।

✓ মনে কর “ক”-এর বেতন বৎসরে ৬০০০ ইহা ছাড়া ক-এর নিয়োগকর্তা ক-এর থাকিবার বাড়ীর ভাড়া বাবদ বাড়ীওয়ালাকে বৎসরে ১৮০০ প্রদান করিয়া থাকে। বাড়ীটি আসবাব পূর্ণ। এখানে ঠিক করিতে হইবে এই প্রদত্ত বাড়ীভাড়ার কতটা ক-এর বেতনের আয়ের সঙ্গে যুক্ত হইবে।

এখানে ধরিয়া লওয়া হইয়াছে যে ‘ক’-এর আর কোন ভাতা বা আয় নাই।

বাড়ী ভাড়ার আয় :—

প্রথমতঃ ৬০০০ টাকার ১২½% +

দ্বিতীয়তঃ (প্রদত্ত ভাড়া অর্থাৎ ১৮০০ - ৬০০০ টাকার ২৫%)

$$\therefore ৬০০০ \times \frac{১২\frac{১}{২}}{১০০} + (১৮০০ - \{৬০০০ \times \frac{২৫}{১০০}\})$$

$$\text{অথবা, } ৭৫০ + (১৮০০ - ১৫০০) = ৭৫০ + ৩০০ = ১০৫০।$$

যদি উপরিউক্ত বাড়ীটি আসবাব শুল্ক হয় তাহা হইলে, এবং মনে কর প্রদত্ত ভাড়া ১৬০০, তাহা হইলে বাড়ীর নিম্নরূপ ভাড়া “ক” এর আয়ের সঙ্গে যুক্ত হইবে।

$$\therefore ৬০০০ \times \frac{১০}{১০০} + (১৬০০ - \{ ৬০০০ \times \frac{১০}{১০০} \})$$

$$\text{অথবা } ৬০০ + (১৬০০ - ১২০০) = ৬০০ + ৪০০ = ১০০০।$$

বিনামূল্যে গ্যাস, বিদ্যুৎ ও জল সরবরাহ :

কর্মচারীকে গ্যাস, বিদ্যুৎ ও জল সরবরাহ করা হইলে তাহার মূল্য যদি নিয়োগ-কর্তাই প্রদান করিয়া থাকে তাহা হইলে উহাদের মূল্য বাবদ যত টাকা প্রদান করিয়া থাকে তাহা সম্পূর্ণই কর্মচারীর বেতনের আয়ের সঙ্গে যুক্ত হইবে।

কিন্তু এই গ্যাস, বিদ্যুৎ বা জল যদি নিয়োগকর্তা নিজেই উৎপাদন বা আহরণ করিয়া তাহার কর্মচারীকে বিনামূল্যে সরবরাহ করে তাহা হইলে তাহার মূল্য বাবদ কিছুই কর্মচারীর বেতনের সঙ্গে যুক্ত হইবে না।

বিনা বেতনে শিক্ষা :

নিয়োগকর্তা যদি কর্মচারীর পরিবারের সভ্যদের বিনাবেতনে শিক্ষা ব্যবস্থা করিয়া থাকে তাহা হইলে নিয়োগকর্তা এই শিক্ষাবাবদ যে পরিমাণ ব্যয় করিবে তাহা সম্পূর্ণই কর্মচারীর বেতনের সঙ্গে যুক্ত হইবে। নিয়োগকর্তার নিজস্ব শিক্ষায়তনে এইরূপ শিক্ষার ব্যবস্থা করিলে তৎস্থানীয় অনুরূপ শিক্ষায়তনে এইরূপ শিক্ষার জন্ম যে পরিমাণ ব্যয় হইবে তাহাই কর্মচারীর বেতনের সঙ্গে যুক্ত হইবে। তৎস্থানীয় অনুরূপ শিক্ষায়তনে এইরূপ শিক্ষার জন্ম বিনাবেতনে শিক্ষার ব্যবস্থা থাকিলে এই শিক্ষার জন্ম কর্মচারীর বেতনের আয়ের সঙ্গে কিছুই যুক্ত হইবে না।

বিনা ভাড়ায় যানবাহনের ব্যবস্থা

যান বাহন সংস্থা কর্তৃক বিনা ভাড়ায় সংস্থার যানবাহনের সাহায্যে কর্মচারীর যাতায়াতের ব্যবস্থা করিলে তাহার বেতনের আয়ের সঙ্গে কিছুই যুক্ত হইবে না।

বিভিন্ন খরচ বাবদ কর্মচারীর যে সকল আয় উহার বেতনের আয় হইতে বাদ যায় :—

১। বই, মাসিকপত্র ইত্যাদির ক্রয় বাবদ সর্বাধিক বাৎসরিক ৫০০ টাকা

অবশ্য এই সকল বই পত্রিকা কর্মচারীর-স্বর্গভাবে কার্য সম্পাদনের জন্য প্রয়োজন হইলেই কেবল এই নিয়ম প্রযোজ্য হইবে।

২। কোনও কোনও সরকারী ও বেসরকারী কর্মচারীর কাজের দায়িত্ব এইরূপ যে, তাহাকে নিয়োগকর্তার স্বার্থে অনেক ব্যক্তিকে আপ্যায়ন করিতে হয়। নিয়োগকর্তা এই সকল কর্মচারীকে এই আপ্যায়নের খরচ বাবদ মাসিক বা বাৎসরিক ভাতা প্রদান করিয়া থাকে। সুতরাং প্রকৃতপক্ষে এই ভাতা কর্মচারীর বেতনের সাথে সাথে প্রদত্ত হইলেও উহা কর্মচারীর আয় হিসাবে ধরা হয় না।

Income Tax Act অনুসারে সরকারী কর্মচারীর ক্ষেত্রে—এই আপ্যায়নের ভাতা (১) ৫০০০ (২) মূলবেতনের একপঞ্চমাংশ (৩) প্রদত্ত ভাতা—এই তিনটির মধ্যে যাহা সর্বনিম্ন হইবে তাহা কর্মচারীর বেতনের আয় হইতে বাদ যাইবে।

অগ্ৰাণ্য কর্মচারীর ক্ষেত্রে—১৯৫৫ সালের ১লা এপ্রিল হইতে যদি এইরূপ কোন আপ্যায়ন ভাতা কর্মচারী তাহার বর্তমান নিয়োগকর্তা হইতে নিয়মিত পাইয়া থাকে এবং এখনও পাইতেছে তাহা হইলেই কেবল এই আপ্যায়ন-ভাতা তাহার বেতন হইতে বাদ যাইবে।

ভাতার পরিমাণ—(১) প্রদত্ত ভাতা (২) ৭৫০০ (৩) মূল বেতনের এক-পঞ্চমাংশ—এই তিনটির মধ্যে যাহা সর্বনিম্ন হইবে।

কর্মচারীর ব্যক্তিগত যানবাহন—চাকুরী করিতে যাইয়া কোন কর্মচারী যদি তাহার ব্যক্তিগত যানবাহন ব্যবহার করে অথচ নিয়োগকর্তার নিকট হইতে যানবাহন ভাতা, বাবদ কিছুই না পায়, তাহা হইলে এই যানবাহনের আনুমানিক খরচ ও উহার স্বাভাবিক ক্ষয়ক্ষতি কর্মচারীর বেতনের আয় হইতে বাদ দেওয়া হয়।

অগ্ৰাণ্য খরচ—অনেক ক্ষেত্রে চাকুরীর শর্তানুসারে কার্য সম্পাদনের জন্য কর্মচারীকে কিছু কিছু খরচ করিতে হয়। এই খরচও তাহার বেতনের আয় হইতে বাদ যাইবে।

বাড়ী ভাড়া ভাতা—নিয়োগকর্তার নিকট হইতে কর্মচারী বাড়ীভাড়া বাবদ যে ভাতা পাইয়া থাকে তাহা নিম্নোক্ত চারিটির মধ্যে যাহা সর্বনিম্ন হইবে সেই পরিমাণ নগদ ভাতা তাহার বেতনের আয়ের সঙ্গে যুক্ত হইবে না।

প্রকৃত ভাতা যাহা করদাতা পাইয়া থাকে। (২) করদাতার বাড়ীভাড়ার খরচ তাহার বেতনের ১০ এর যতটুকু ভতটুকু, (৩) কলিকাতা, বোম্বাই, দিল্লী বা মাদ্রাজের বাড়ী হইলে বেতনের ৬, অন্যত্র বাড়ী হইলে বেতনের ১০; (৪) মাসিক ৩০০। এই ক্ষেত্রে বেতন বলিতে মূল বেতনই বুঝায়,

মোটর গাড়ীর ব্যবহারের মূল্যায়ন—

(ক) নিয়োগকর্তার গাড়ী—কর্মচারীকে তাহার ব্যক্তিগত ব্যবহারের জন্য যদি গাড়ী দেওয়া হয়, স্বাভাবিক ক্ষয়ক্ষতি সহ ঐ গাড়ী বাবদ নিয়োগকর্তা যত পরিমাণ খরচ করিবে তাহা সম্পূর্ণই কর্মচারীর বেতনের আয়ের সহিত যুক্ত হইবে।

(খ) নিয়োগকর্তার গাড়ী—কর্মচারীকে আংশিক ভাবে তাহার চাকুরীর জন্য এবং আংশিকভাবে তাহার ব্যক্তিগত ব্যবহারের জন্য দেওয়া হইয়াছে। গাড়ী বাবদ নিয়োগকর্তার মোট খরচ ঐ দুই অংশে বন্টনের সহজ উপায় থাকিলে ব্যক্তিগত ব্যবহারের জন্য যে খরচ পায় হইবে কর্মচারীর বেতনের আয়ের সঙ্গে তাহা যুক্ত হইবে।

যে ক্ষেত্রে ঐ দুই অংশে খরচ বন্টনের সহজ উপায় না থাকে সে ক্ষেত্রে নিম্নোক্ত উপায়ে ব্যক্তিগত ব্যবহারের বাবদ মাসিক মূল্য নির্ধারিত হয়

নিয়োগকর্তা কর্তৃক কর্মচারী কর্তৃক

	খরচের ক্ষেত্র	খরচের ক্ষেত্র
১। গাড়ীর অংশশক্তি ১৬ এর অনধিক অথবা গাড়ীর ইঞ্জিনের ঘন ক্ষমতা ১'৮৮ এর অনধিক।	১৫০ টাক!	৬০
২। গাড়ীর অংশশক্তি ১৬ এর অধিক অথবা গাড়ীর ইঞ্জিনের ঘন ক্ষমতা ১'৮৮ এর অধিক।	—২৫০	১০০ ✓

উপরোক্ত পরিমাণ অর্থ কর্মচারীর বেতনের আয়ের সঙ্গে যুক্ত হইবে।

Q 34. Briefly state the provisions of the Income Tax as regards Provident Funds.

Ans. Provident Funds generally are of three types :

- Statutory Provident Fund ;
- Recognised Provident Fund ; and
- Un-recognised Provident Fund.

Statutory Provident Fund :

In the year 1925 Provident Fund Act was passed. The Act is generally applicable to the Provident Fund maintained by local Authorities, Universities, Railways, Government Colleges etc. ; and such Funds are known as Statutory Provident Fund. An employee who is a member of such Statutory Provident Fund is entitled to certain relief under the Indian Income Tax Act. His own contribution to such Fund is included in his income from salary, but contribution by the employer and the interest on the accumulated balance to the member's credit in the fund are not included in his salary income. His own contribution to such Fund together with any life Insurance Premium paid by him are entitled to a rebate at an average rate on an amount upto 25% of his total income or Rs. 10,000/- whichever is less. At the time of retirement of his service the sum received by an assessee as the accumulated balance at his credit is not included in his total income.

Recognised Provident Fund

Recognised Provident Funds are governed by the rules as laid down in part A of the 4th Schedule of Income Tax Act 1961. It is Provident Fund which is recognised by the Commissioner of Income Tax if it satisfies the conditions as laid down in rule 4. It includes a Provident Fund under a scheme framed under Employees Provident Fund Act 1952. An assessee who is a member of such Fund is entitled to certain relief :

(i) His own contribution to such Fund is included in his salary income, but a rebate is allowed on such contribution at average rate from his Income Tax.

(ii) Employer's contribution to such Fund upto 10% of the salary of the employee will not be included in his total income, but the amount of contribution in

excess of 10% of his salary will be included in his income.

(iii) The interest credited to such Provident Fund will not be included in his total income if the amount of such interest does not exceed $\frac{1}{8}$ of his salary and the prescribed rate of interest on such amount does not exceed 6%. Any amount of interest in excess of such $\frac{1}{8}$ of salary and or the rate in excess of 6%, whichever is higher, will be included in his total income.

(iv) When the accumulated balance of such Provident Fund becomes due to the employee at the time of retirement it will be included in his total income provided he has not rendered continuous service of 5 years or more unless such retirement is caused by the employee's ill-health or by any other reasons over which he has no control.

Rebate :

Rebate in respect of contribution to such Provident Fund.

In case of Individual :

Rebate is allowed at an average rate on employee's own contribution upto 20% of his salary or Rs. 8,000/- whichever is less.

Employee's contribution to such Fund together with any Insurance premium paid by him upto 25% of the total income or Rs. 10,000/-whichever is less.

In case of Hindu Undivided Family :

On the amount of premium together with Provident Fund contribution upto 25% of the total income or Rs. 20,000/- whichever is less, a rebate at an average rate is allowed.

When any balance from Un-recognised Provident Fund is transferred to such Recognised Provident Fund, the balance so transferred to the extent of employer's

contribution and interest thereon will be included in his total income.

Un-Recognised Provident Fund :

It is a Provident Fund to which neither the Provident Fund Act of 1925 applies, nor is recognised by the commissioner of Income Tax.

The employee who is a member of such Fund is not generally entitled to any relief in respect of contribution made by the employer.

(i) In respect of contribution made by the employer to such Fund, no account is taken of such contribution or the interest thereon.

(ii) Income Tax is payable on the amount of balance due from an Un-Recognised Provident Fund or received by the employee in the previous year i.e. a payment from the accumulated balance of Un-Recognised Provident Fund will be included in the total income of the assessee.

But the assessee is entitled to apply to the Commissioner of Income Tax for relief under Section 89 (1).

(iii) A member of such Un-Recognised Provident Fund is however entitled to a rebate of Income Tax at an average rate on the amount of premium upto 25% of the total income or Rs. 10,000/- whichever is less.

N. B. The term 'Salary' on which the percentage of contribution is calculated includes Dearness Allowance if the terms of employment so provides ; but it will not include any other allowances or perquisites.

প্রভিডেন্ট ফাণ্ড (Provident Fund)

কর্মচারীর প্রভিডেন্ট ফাণ্ড সাধারণত তিন প্রকারের হইয়া থাকে ।

- ১। অনুমোদিত প্রভিডেন্ট ফাণ্ড
- ২। অননুমোদিত প্রভিডেন্ট ফাণ্ড
- ৩। আইন-অনুগ প্রভিডেন্ট ফাণ্ড

১. অনুমোদিত প্রভিডেন্ট ফাণ্ডের ক্ষেত্রে—

এইরূপ তহবিলে নিয়োগকর্তার প্রদত্ত অংশ (কর্মচারীর মূল বেতনের ১০% অবধি) কর্মচারীর বেতনের আয়ের অন্তর্ভুক্ত করা হয় না। এই প্রদত্ত অংশ (১) যতটুকু কর্মচারীর বেতনের ১০% এর বেশী হইবে তাহা অথবা (২) এই তহবিলের উপর স্বদের হার শতকরা ৬ ভাগের যতটুকু বেশী হইবে সেই বাড়তি অংশের হারে প্রাপ্য স্বদের পরিমাণ '৩। অথবা মোট তহবিলের বাৎসরিক প্রাপ্য স্বদের পরিমাণ কর্মচারীর বেতনের এক-তৃতীয়াংশের যতটুকু বেশী হইবে তাহা—এই তিনটির মধ্যে যেটি বেশী হইবে তাহা কর্মচারীর বেতনের আয়ের সঙ্গে যুক্ত হইবে।

অননুমোদিত প্রভিডেন্ট ফাণ্ডের ক্ষেত্রে—

এইরূপ তহবিলে নিয়োগকর্তার বাৎসরিক প্রদত্ত অংশ এবং মোট প্রদত্ত অংশের উপর স্বদ যখন কর্মচারীর হাতে পাওনা হইবে বা সে পাইবে, অথবা কোন কোন অনুমোদিত প্রভিডেন্ট ফাণ্ড হস্তান্তরিত হইবে তখনই কেবল এই অংশ কর্মচারীর বেতনের আয়ের সঙ্গে যুক্ত হইবে, চণা ছাড়া অন্য সময় নয়।

আইন-অনুগ প্রভিডেন্ট ফাণ্ডের ক্ষেত্রে—

এইরূপ তহবিলে নিয়োগকর্তার প্রদত্ত অংশ বা তাহার উপর স্বদ কোনটাই কর্মচারীর আয়ের অন্তর্ভুক্ত হয় না।

এই প্রভিডেন্ট ফাণ্ডে কর্মচারীর প্রদত্ত এবং কোনও কোনও ক্ষেত্রে নিয়োগকর্তার প্রদত্ত অংশ বেতনের মোট আয়ের অন্তর্ভুক্ত হইলেও উহার উপর এবং জীবন-বীমার প্রিমিয়ামের বাবদ কিছুটা আয়কর হইতে অব্যাহতি দেওয়া হয়।

ব্যক্তির ক্ষেত্রে প্রিমিয়াম ও প্রভিডেন্ট ফাণ্ড বাবদ বাৎসরিক মোট ১০০০০/- বা মোট আয়ের ২৫% এই দুই এর মধ্যে যাহা কম তাহার উপর প্রদেয় কর মোট দেয় কর হইতে গড় হারে বাদ যাইবে।

অবিভক্ত হিন্দু পরিবারের ক্ষেত্রে এই প্রিমিয়াম ও প্রভিডেন্ট ফাণ্ড প্রদত্ত অংশ মোট ২০০০০/- বা আয়ের ২৫% ইহাদের মধ্যে যাহা কম তাহার উপর প্রদেয় কর মোট দেয় কর হইতে বাদ যাইবে।

ব্যক্তির ক্ষেত্রে কেবল মাত্র প্রভিডেন্ট বাবদ প্রদত্ত অংশের উপর সর্বাধিক ৮০০০/- অথবা মূল বেতনের ২০% এই দুই এর মধ্যে যাহা কম তাহার উপর কর অব্যাহতি পাইবে।

জীবন বীমার পলিসি মূল্যের সর্বাধিক ১০% পর্যন্ত প্রিমিয়াম বাবদ এই কর অব্যাহতি দেওয়া হয়।

অনুমোদিত প্রভিডেন্ট ফাণ্ডের মজুত তহবিলের টাকা যখন কর্মচারীকে তাহার অবসর গ্রহণের সময় দেওয়া হয় তখন এই পরিমাণ অর্থও কর্মচারীর বেতনের আয়ের সঙ্গে যুক্ত হয়, অবশ্য, যদি দেখা যায় যে, কর্মচারীটি অন্তত ৫ বৎসর কাল নিরবিচ্ছিন্নভাবে চাকুরী না করিয়াই অবসর গ্রহণ করিতেছে। অবশ্য, কর্মচারীর ক্ষমতার বাহিরে কোন কারণে বা শারীরিক অসুস্থতার জন্য চাকুরী ছাড়িতে হইলে এই নিয়ম প্রযোজ্য নয়।

ILLUSTRATIONS

Q. 35. Sri P. Chaudhury is the managing director of a Company. He gets a monthly salary of Rs. 1600 per month. He gets a commission of 1% on the net profits of the company. He also gets a car allowance of Rs. 200 per month. He is provided with free furnished house. The car is exclusively used for his official duties. He is also getting a pension of Rs. 200 as an ex-employee of a native state.

The annual net profits for the year amounted to Rs. 260000. The Company pays Rs. 60 per month as wages of a mali for the proper upkeep of the house. Compute the income of Sri Chaudhury from salary for the previous year ended 31st March, 1964.

Ans.

- | | |
|--|-----------|
| 1. Salary for 12 months @ Rs. 1600 p. m. = | Rs. 19200 |
| 2. Commission on Rs. 260000 @ 1% = | Rs. 2600 |
| 3. Value of furnished house = | Rs. 2725 |
| (12½% of Rs. 21800) | |
| 4. Pension for 12 months @ Rs 200 p. m. = | Rs. 2400 |
| <hr/> | |
| Total income from salary = | Rs. 26925 |

Notes

1. Wages of mali paid by the company for the proper upkeep of the house will not be treated as income of Sri Chaudhury.

2. Value of free furnished house
 $= 12\frac{1}{2}\%$ of the salary
 $= 12\frac{1}{2}\%$ of Rs. (19200 + 2600)
 $= \text{Rs. } 2725.$

3. Car allowance cannot be considered as the income of Sri Chaudhury because the car is exclusively used for his official duties.

Q. 36. Sri. B. Bose is the manager of New Chemical Products Ltd. He gets a monthly salary of Rs. 1000 p. m. He gets a commission of 2% on the net profits. He is provided with a car which is exclusively used for his personal purposes. He is provided with free unfurnished house whose rental valuation is Rs. 3500 per annum. He gets an 'Entertainment Allowance' of Rs. 200 since 1949. The annual profit of the company for the year amounted to Rs. 100000. The total annual expenses met by the Company on account of the car together with its depreciation amounted to Rs. 1600. Compute the total income of Sri Bose for the year ended 31st December 1964.

Ans.

1. Salary for 12 months @ Rs. 1000 p. m. = Rs. 12000

2. Commission of 2% on Rs. 100000 = Rs. 2000

3. Value of car provided by the }
 Company for his personal use } = 1600

4. Value of rent-free house unfurnished
 (10% of 15600 + {3500 - 3120}) = 1940

Total income from Salary Rs. = Rs. 17540

Note

1. Sri Bose has been getting 'Entertainment Allowance' since 1949. Rs. 200 p. m. which does not exceed $\frac{1}{8}$ of his salary. Therefore, this allowance will not be included in his total income.

2. Value of rent from unfurnished house 10% of Rs. (12000+2000+1600) + (fair value – 20% of Rs. 15600) = Rs. (1560 + { 3500 – 3120 }) = Rs. (1560 + 380) = Rs. 1940.

3. Value of car provided for his personal use shall be determined by the actual expenses incurred by the company.

Q. 37. Sri S. B. Sen, an employee of a firm, gets a monthly salary of Rs. 800 per month. He gets a high-cost living allowance of Rs. 150 p. m. Other particulars regarding his income are given below :—

1. He is a member of an Unrecognised Provident Fund. Employer's contribution to such fund amounts to 12% of his salary. His own contribution amounts to 8% of his salary. Interest on the accumulated balance of such provident fund amounts to Rs. 60 per month.

2. He pays life insurance premium of Rs. 500 p. a. on a policy of Rs. 4500.

3. He is provided with a furnished house. A sum of Rs. 160 is being paid by the employer as the monthly rent of the house.

4. He is also provided with a Car, the h. p. rating of which is below 16. The car is partly used for office and partly for his private purpose. Car expenses are entirely borne by the employer.

5. He gets an entertainment allowance of Rs. 200 p. m. and he was getting such allowance since 1952.

Find out the total salary income of Sri Sen ; find also the 'Exempted Income.'

Ans.	Rs.
1. Salary @ Rs. 800 p. m.	9600
2. Value of car provided by the employer and expenses borne by the employer @ 150 p.m.	1800
3. High cost living allowance @ 150 p. m	1800
4. Value of rent-free furnished house (12½% of { 9600 + 1800 })	1425
5. Entertainment allowance	Nil
Total income	Rs. 14625

Note.

✓1. Value of rent-free furnished house shall be 12½% of the salary. Rent paid by the employer does not exceed 25% of the salary.

✓2. Value of car partly used for personal purposes is determined as follows :—

When the car is provided by the employer and its expenses are entirely borne by the employer the value for the use of the car should be taken at Rs. 150 p m. in respect of car with h. p. rating below 16.

3. Employer's contribution to unrecognised provident fund together with the interest thereon shall not be included in the salary income. It will be included in the salary income of the employee only when any sum is paid to him out of that fund or the accumulated balance (to the extent of employer's contribution and interests thereon) is transferred to any Recognised Provident Fund account of the employee.

7. Sri Sen is not also entitled to any rebate on his own contribution to such provident Fund.

8. Sri Sen has been getting an entertainment allowance since 1952 (i.. e. before the statutory date.)

So this allowance will not be included in his salary income to the extent of ½th. of his salary or Rs. 7500.

which ever is less. Here this allowance, to the extent of $\frac{1}{8}$ th of the salary, is to be totally exempted from his income.

Exempted Income.

Sri Sen is entitled to a rebate of tax at an everage rate }
on the Life Insurance premium paid by him to the extent }
of Rs. 450 p. a. (Maximum 10% of the sum assured.)

Q. 38. Sri. S.K. Sen, an officer of a private concern, draws a monthly salary of Rs 1600 p.m. The other particulars regarding his income are stated below :—

(i) He cotributes to his provident fund A/c $12\frac{1}{2}\%$ of his salary

(ii) Employer's contribution to such fund is also $12\frac{1}{2}\%$

(iii) He is provided with a rent free furnished house in calcutta by his employer. The municipal rental valuation of the house is Rs. 6600. ✓

(iv) He also receives a bonus of Rs. 1000 p.a. from his employer.

(v) The amount of interest credited to his provident fund account @ 6% p.a. for the year amounted to Rs. 800.

(vi) He pays Rs 4000 p.a. as life insurance premium on a policy of Rs. 50000.

Acertain the total salary income of Sri Sen for the assessment year 1964-65 assuming the provident fund is (a) Statutory provident fund (b) Recognised provident fund (c) un-recognised provident fund.

Ans. (a) 1. Salary (1600×12)	=	Rs. 19200
2. Bonus	=	1000
3. Value of rent free house		
in Calcutta	=	2525
<hr/>		
Total income		Rs. 22725

Notes

1. Employer's contribution to a statutory provident fund or interest credited there on shall not be included in his income.

2. Value of rent free (furnished) house

$$= 12\frac{1}{2}\% \text{ of Rs } (19200 + 1000)$$

The house is located in Calcutta and the fair rent of the house does not exceed $37\frac{1}{2}\%$ of the salary (i.e. Rs. 19200 + Rs. 1000). \therefore The value of the house is taken at $12\frac{1}{2}\%$ of Rs. 20200 only.

In case of house located in Calcutta, Bombay and Delhi valuation of rent free house should be taken as follows.

unfurnished house :— 10% of the salary
plus Excess of fair rent over
30% of salary.

Furnished house = $12\frac{1}{2}\%$ of the Salary
plus Excess of fair rent over
 $37\frac{1}{2}\%$ of the salary.

Rebate :— This will be allowed on his }
own Contribution to provident } = Rs, 2400
fund @ $12\frac{1}{2}\%$ of his salary }
Life insurance premium (P.F. }
Contribution and insurance premium }
limited to 25% of Rs. 22725)

$$= \left\{ \left(\frac{22725}{4} \right) - 2400 \right\} = 3281.25$$

Rs. 5681.25

(b)

1. Salary (1600 × 12)	=	Rs. 19200
2. Bonus	=	Rs. 1000
3. Value of rent free furnished house in Calcutta	=	Rs. 2525
4. Employer's Contribution to recog- nised provident fund in excess of 10% of Salary (i. e. $2\frac{1}{2}\%$ of 19200)	=	Rs. 480
5. Interests credited to the provident fund account (less than $\frac{1}{2}$ of the salary and rate does not exceed 6%)	=	Nil
Total income		<u>Rs. 23205</u>

Note.

1. Value of rent free furnished house in Calcutta is to be calculated as (a).

Rebate :—This will be allowed on his own contribution to provident fund @ $12\frac{1}{2}\%$ of his salary = Rs. 2400

Life insurance premium (Provident fund contribution and premium limited to 25% of Rs. 23205)

$$= \left\{ \left(\frac{23205}{4} \right) - 2400 \right\} = \frac{\text{Rs. } 3401.25}{\text{Rs. } 5801.25}$$

(c)

1. Salary (1600 × 12)	=	Rs. 19200
2. Bonus	=	Rs. 1000
3. Value of rent free furnished house in Calcutta	=	Rs. 2525
Total income	=	Rs. 22725

Note. 1. In respect of contribution made by the employers in this case no account is to be taken of such contribution and the interests credited there on.

2. Value of rent free house is to be calculated as (a)

Rebate :—It will be in this case on the own contribution of shri sen to such fund. Nil

On Life insurance premium (P. F. contribution plus insurance premium limited to 25% of his income)

Rs. 4000

Rs. 4000

39. Sri. S.R. Dasgupta, manager of National Transport Ltd., draws a monthly salary of Rs. 2000 p.m. The other particulars regarding his income are stated below :—

(i) He is provided with a free furnished house in Bombay Town and the company pays a monthly rent of Rs. 1000 p. m. for that house.

(ii) His own contribution to a recognised provident fund account amounts to Rs. 300 p. m. and employer's contribution to such fund account is equal to that.

(iii) The interests credited to the fund account @ 9% p. a. is Rs. 9000

(iv) He has been receiving an entertainment allowance of Rs. 450 p. m. since 1951. It has been raised to Rs. 600 on 1st January 1960.

(v) During the year 1964-65 Sri Dasgupta purchased books worth of Rs. 700. Those books are necessary for his official duties.

(vi) He is provided with a servant, and the wages of Rs. 40 p. m. is paid by the company.

(vii) He pays Rs. 3000 p. a. as insurance premium for a life policy of Rs. 25000.

(viii) Value of the medical bill reimbursed by the company is Rs. 1000

(ix) Value of free lunch provided by the Company during office hours is Rs. 80 p. m.

(x) The wage of a gardener @ Rs. 70 p. m. is paid by the Company.

(xi) The value of gas supplied to him amounted to Rs. 200 in the year 1964-65 and the Gas bill was paid by the Company.

(xii) He gets a dearness allowance of Rs. 200 p. m.

(xiii) He is provided with free Transport service for the journey from his house to Office and back with the help of Company's own vehicle and the value of such service normally amounts Rs. 400 p. a.

Ascertain the tax liability of Sri S R. Dasgupta for the year ended 31st. March 1965.

Ans.

- | | |
|---------------------------------------|-------------|
| 1. Salary @ Rs. 2000 p. m. | = Rs. 24000 |
| 2. Dearness Allowance @ Rs. 200 p. m. | = „ 2400 |

HEADS OF INCOME—(SALARY)

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3.	Value for free servant @ Rs 40 p.m.	= „	480
4.	Value of free lunch during office hours @ Rs. 80 p.m.	= „	960 ✓
5.	Value of gas supplied	= „	200
6.	Entertainment allowance (600 - 450) = 150 p.m.	= „	1800 ✓
7.	Value of rent free furnished house (12½% of Rs. 27440) + Excess over 37½% of salary (Rs. 27440)	= „	514 ✓
8.	Employer's contribution to recognised provident fund (Excess over 10% of salary)	= „	1200
9.	Interest credited on provident fund account @ (9% - 6%) = 3%	= „	3000
10.	Value for wages of gardenar (under Departmental instruction)	= „	Nil
11.	Value for the medical bill re-imbursed) by the Company (under Departmental ins- truction totally exempted)	= „	Nil
12.	Value of free transport service by a transport company in its own vehicle	= „	Nil
			<hr/> Rs 3918)
Less cost of books necessary for his official duties (maximum Rs. 500)			= Rs. 500
Total income			= <u>Rs. 38680</u>

Rebate

On his own contribution to recognised provident fund @ 300 p. m.	= Rs. 3600
On insurance premium (limited to 10% of the policy amount) i.e. 10% of 25000	= Rs. 2500
	= Rs. 6100

(Rs. 6100 is less than 25% of the total income of Sri Dasgupta. ∴ The ceiling of 25% of total income does not arise here.)

Notes

1. Free refreshments and not free lunch during office hours are to be excluded in the computation of total income under departmental instruction.

2. Entertainment Allowance is to be excluded as follows :—least of following three.

(1) Rs. 7500 (ii) The amount which he has been regularly receiving since 1.4.55. (iii) $\frac{1}{3}$ of the salary

\therefore Rs. 450 p.m. (amount regularly received) is to be excluded from his income.

So the excess amount over it i.e. Rs. (600—450) p.m, will be treated as his income.

3. Employer's contribution to a recognised provident fund = Excess of contribution over 10% of salary is to be included in his total income.

4. Interests credited to such fund @ 6% p.a, only or amount equal to $\frac{1}{3}$ of the salary, whichever is lower is only to be excluded from his salary income. Therefore, interests at the excess rate (i.e., 9%—6% = 3%) or the excess over $\frac{1}{3}$ of the basic salary, whichever is higher is to be included in his income.

Here, interest @ 3% p. a. is the higher amount and is to be included in his income.

5. Value of rent free furnished house in Bombay.

1st $12\frac{1}{2}\%$ of Rs. (24000 + 480 + 960 + 200 + 1800)

plus excess of fair rent over $37\frac{1}{2}\%$ of Rs. (24000 + 480 + 960 + 200 + 1800)

= $12\frac{1}{2}\%$ of 27440 + Excess of fair rent over $37\frac{1}{2}\%$ of Rs. 27440

= 3430 + (12000 - 10290) = 3430 + 1710 = Rs. 5140.

Q. 40. In the year ended March 31. 1963 an unmarried individual was employed in an office and drew a salary of Rs. 550 p.m. He lived in his own house of which the municipal valuation was 1200. He also had a gross income of Rs. 1100 from dividend in company shares held by him

Calculate his total income for the purpose of Income Tax.

[C. U. Degree Course B. Com., 1963]

Ans. Salaries @ Rs. 550 p.a. = Rs. 6600

Income from dividend (gross) 1100

Income from house property

$$\left(\frac{10}{100} \times \frac{12}{11} \text{ of } 7700 \right) = 840$$

Less $\frac{1}{8}$ of 840 for repairs = 140 700

Total income Rs. 8400

Q. 41. Arjun Bhaduri received during the year ended 31st March, 1962 Rs. 20000 as Salary and other sum of Rs 2000 as Bonus. He contributed Rs. 2500 towards his Provident Fund. His employer contributed an equal amount. Interest at 10% amounting to Rs. 1000 was credited to his Provident Fund Account.

He paid Rs. 3000 as Life Insurance Premium on a policy of Rs. 30000

You are asked to ascertain the assessable income of Bhaduri and his exempted income if the Provident Fund (i) is registered under Provident Fund Act 1925 (ii) is recognised under the Income Tax Act or (iii) is an unrecognised Provident Fund. [C. U. M. Com. 1963]

Ans. (i) 1. Salary	Rs. 20000
2. Bonus	" 2000
<hr/>	<hr/>
Total income	Rs 22000

Rebate :—

On Provident Fund Contribution (own) Rs. 2500

On Life Insurance Premium " 3000

Rs. 5500

Notes. 1. As the Provident Fund is registered under Provident Fund Act 1925 no account is to be taken of the employer's contribution to such Fund and interests credited there on.

2. He is entitled to a rebate on an amount up to 25% of his total income on account of life insurance premium paid and his own contribution to Provident Fund.

(ii) 1. Salary	= Rs. 20000
2. Bonus	= „ 2000
3. Employer's Contribution to Provident Fund. (Exemption limited to 10% of Salary)	= Rs. 500
4. Interests credited to the provident fund account at the rate in excess over 6% i.e., (10% - 6%)	= „ 400
Total income	<u>Rs. 22900</u>

Rebate :

On his own contribution to Provident Fund.	= Rs. 2500
On Life Insurance Premium	= „ 3000
	Rs. 5500

1. Employer's contribution to recognised provident fund in excess of 10% of the salary shall be included in the salary-income of Sri Bhaduri.

2. Interest credited at a rate in excess over 6% (i.e., at 4%) shall be included in his salary income.

(iii) Salary	Rs. 20000
Bonus	„ 2000
Total income	<u>Rs. 22000</u>

Rebate :—On life insurance premium = Rs. 3000

Notes. 1. Employer's Contribution to unrecognised provident fund and interests credited there on shall not be taken account of. No rebate is allowed on Sri Bhaduri's own contribution to provident fund. Entire balance of such unrecognised provident fund account to the extent of employer's contribution and interest there on shall be included in his total income, if and when this balance will

be transferred to any recognised provident fund account or when he will receive the amount at the time of his retirement.

Q. 42. Sri A is an officer of a firm. He draws a monthly salary of Rs. 800 p.m. and a house allowance of Rs 80 p.m. He contributes Rs 90 p.m. to his provident fund A/c. His employer contributes an equal amount to such fund. The interest on his provident fund account for the year amounted to Rs 1220. He receives three months salary as bonus during the year. His other income consisted of (a) Rs 1200 as his share of profit from an unregistered firm. The firm's profits has been already taxed. (b) Rs 1600 as net income from property (c) Rs 700 as interets from tax free Govt. Securities. (d) He also received Rs 1435 as net dividend (after deduction of tax at source @ 30%. (e) He paid during the year life insurance premium Rs 800 on a policy on his own life and Rs. 350 on a policy on the life of his wife. Ascertain the tax-liability of Shri A for the year ended on 31st March 1965.

*[Question prepared according to Question of
B. com. (Rajasthan.), 1956]*

Ans, 1.	Salary @ Rs. 800 p.m.	Rs. 9600
2.	Bonus equal to three months salary	Rs. 2400
3.	Employer's contribution to recognised provident fund in excess of 10% of basic salary	Rs. 120
4.	Interest on tax-free Govt. Securities	Rs. 1435
5.	Income from property	Rs. 1600
6.	Share of income from an U.R.F.	Rs. 1200
7.	Income from Dividend grossed up	Rs. 2050

$$\left(\frac{1435 \times 100}{70} \right)$$

Total income	<u>Rs. 18405</u>
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Rebate :

1. On the premium paid on the life policies of his own and that of his wife (Rs. 350+Rs.800)	Rs. 1150
2. On the contribution to R. P. F. (Rs. 90 × 12)	„ 1080
3. Interests on tax-free Govt. Securities	„ 700
4. Share of profit of U. R. F. (Taxed)	„ 1200
	<hr/>
Total	Rs. 4130

Notes :

1. Interests credited to provident fund are exempted from the payment of tax.

2. Share of income from profits of an unregistered firm has already been taxed. So it will be included in his total income but rebate will be allowed on it.

3. Rebate is also allowed on "Interests on tax-free Govt. Securities", though those are included in his total income.

4. As per amended section 10(13A) an amount equal to one-tenth of the amount of salary due to the assessee in respect of the relevant period is to be totally exempted from salary income,

Q. 43. Prof. R. Ganguly is the principal of a Calcutta College. The particulars of his income are stated below. Ascertain the tax liability of Prof. Ganguly for the year ended on 31st December, 1964.

1. Salary of Rs. 1000 p.m.
2. Dearness allowance of Rs. 300 p.m.
3. House allowance of 120 p.m.
4. Contribution made by him to a recognised provident fund 12% of his basic salary since July, 1964.
5. Balance of un-recognised provident fund transferred to his newly recognised provident fund during this year Rs 4580. (Employer's contribution and interests there on amounted to Rs. 2290.)
6. Interests credited at the end of year, 1964 @ 8% p. a. on the total balance of his providet fund account.

7. He paid Rs. 1200 as life insurance premium on his own life-policy of Rs. 10000.

8. Employer's contribution to his provident fund account is equal to that of his own contribution.

Ans.

1. Salary @ Rs. 1000 p. m.	= Rs. 12000
2. Dearness allowance @ Rs. 300 p.m.	= „ 3600
3. House allowance	= „ 240
4. Employer's contribution to R. P. F. (in excess of 10% of his basic pay for 6 months only.	= „ 120
5. Transferred balance of unrecognised provident fund (Employer's Contribution and interests there on)	= „ 2290
6. Interests credited (at a rate in excess of 6%) on the balance of provident fund	= „ 51'80
Total income Rs. <u>18301'80p.</u>	

Rebate :

1. On his own contribution to R. P. F. @ 12% on his basic pay for 6 months	Rs. 720
2. On the life insurance premium (limited to 10% of the sum assured)	1000
	<u>Rs. 1720</u>

Notes :

1. Prof. Ganguly may, however, claim relief under Section 89 as his income has been unduly inflated on account of the transferred balance of unrecognised provident fund.

2. Interests on the balance of provident fund calculated as follows @ 2% (8% - 6%) p a. :—

$$\text{Int. On Rs. } 4580 \times \frac{2}{100} \times \frac{6}{12} = \text{Rs. } 45'80 \text{ P.}$$

Add Int. on Rs. (120 + 120) for 15 months

$$@ 2\% = 240 \times \frac{15}{12} \times \frac{2}{100} = \text{Rs. } 6'00$$

Rs. 51'80 P.

3. As per amended section 10(13A) one-tenth of salary is to be totally exempted from his total income, So house allowance in excess of 10% of salary i.e., Rs. 20 p.m. only to be included.

Q. 44. Sri B. Sen is the manager of a manufacturing concern. The particulars of his income are given below. Ascertain his tax-liability for the year ended on 31st March, 1965.

1. Salary after deducting his own contribution to an unrecognised provident fund @ 10% on his basic salary amounts to Rs. 21600 p. a

2. Dearness allowance Rs. 2400 p. a.

3. Employer's contribution to provident fund @ 12% on his basic salary.

4. Interests credited on the balance of P. F. for the year 8% p. a. Rs. 1200.

5. Life insurance premium paid on his own life and on the life of his wife Rs. 1500 p a

Ans.

1. Salary before deducting his contribution to

$$\text{U. R. P. F. } \left(\frac{21600 \times 100}{90} \right) = \text{Rs. 24000}$$

2. Dearness allowance = Rs. 2400

Total income Rs. 26400

Rebate :

On the premium paid on his own life-policy and

that of his wife Rs. 1500

Note. No account is taken of employer's contribution to an un-recognised provident fund and interest credited there on. No rebate also allowed on Sri Sen's own contribution to U. R. P. F A/c.

CHAPTER III

HEADS OF INCOME (INTEREST ON SECURITIES)

As per Section 18 of the Income Tax Act following amounts due to an assessee in the Previous Year shall be chargeable to Income Tax under the head 'Interest on Securities'.

(1) Interest on any security of the Central Government or of the State Governments.

(2) Interest on Debentures or other securities issued by any of the following :

- (i) Local Authority ;
- (ii) Company ;
- (iii) Corporation established by the Central or State Act.

An assessee will be charged to Income Tax in respect of any interest on securities received by him in the Previous Year if such interest had not been charged to Income Tax in earlier Previous Year.

Any interest on securities payable outside India on which tax has not been paid or deducted and in respect of which there is no person in India who may be treated as an agent shall not be included in the income under this head. This should be included as income from 'Other Sources'.

Interest on securities held as trading assets or dealt with in the course of business shall be included under this head and this will not be treated as income from Business Profits.

Basis of Charge

Under the Present Act, interest on securities will be charged on accrual basis. Interest on securities will, however, be charged when the amount of interest is received, if it has not been charged in earlier Previous Year on accrual basis.

Cum-Interest And Ex-Interest Transaction :

Cum-Interest and Ex-Interest transactions are to be completely ignored in calculating the actual amount of interest on securities.

Cum-Interest Purchase Of Security :

Sometime the purchaser of security pays for the price of security as well as interest for the period from the last accrual date. i.e. he is paying price for the interest on security to the seller but no deduction will be allowed for such price paid for. The simple rule is that interest on security will be included in the income of the owner when it becomes due.

Tax-free Government Security :

The net amount of interest/(after deducting expenses on account of such interest) will be included in the total income of the assessee, but a rebate will be allowed on such income at an average rate.

Tax Free Commercial Security :

These are securities in respect of which tax is paid by the Issuing Authority. In such case, the net interest is to be first grossed up and such gross interest will be included in the income of the assessee. The amount of tax paid by the Issuing Authority will then be deducted from the total amount of tax calculated on his total income. One thing to be noted is that only Government can declare a security to be tax free.

Profit or Loss on Sale of Securities :

It is to be considered as a revenue profit or loss in case of a business which does this buying and selling business. So it is to be considered as a business profit or loss and will not be included under the head 'Income from interest on securities'—it will be included under the head 'Income from Business or Profession'. But in case of Investment Companies who hold securities as permanent assets, the profit or loss will be considered as Capital Profit or Loss, and not

Revenue Profit or Loss. Hence it will not be included under this head ('Interest on Security'), but will be included under the head 'Income from Capital Gains'.

As per Section 19 of the Act, the income chargeable under the head 'Interest on Securities' shall be computed after making the following deductions (subject to the provision of Section 21):

1. Any reasonable sum expended by the assessee for the purpose of realising such interest ;
2. Any interest payable on moneys borrowed for the purpose of investment in the securities by the assessee.

Deduction from Interest on Securities in the case of Banking Companies

The sum shall be regarded as the sum reasonably expended for the purpose of realising such interest and it shall be the amount bearing to the aggregate of his expenses as are admissible under the provisions of Sections 30, 31, 36 and 37, the same proportion as the gross receipt from interest on security (chargeable to Income Tax under Section 18) bearing to the gross receipt to the Company from all sources which are included in the Profit and Loss Account of the Company.

Explanation : The proportion between the aggregate admissible expenses and gross receipt from interest on securities under Section 18, is the same as the proportion between the sum reasonably expended and the amount of interest realised.

In case of interest payable on moneys borrowed for the purpose of purchasing securities, the amount of reasonable interest shall be calculated on the above basis.

In calculating the interests on securities it is to be noted that interest on the following securities is to be excluded from the total income of the recipient :—

- (i) 15 year Annuity Certificates issued by or under an authority of the Central Govt.

- (ii) Treasury Saving Deposit Certificates.
- (iii) Post Office Cash Certificates.
- (iv) National Savings Certificates.
- (v) National Plan Certificates.
- (vi) Twelve year National Defence Certificates.
- (vii) Twelve year National Plan Savings Certificate.
- (viii) Such other Certificates issued by the Central Govt. as are specified.

(ix) Securities held by the Issue Department of the Central Bank of Ceylon constituted under the Ceylon Monetary Law Act. 1949.

ঋণপত্রের উপর সূদ হইতে আয় (Income from "Interests on Securities")

ঋণপত্রের (Securities) উপর সূদের তালিকায় যে সকল আয়কে অন্তর্ভুক্ত করা হয় সেই সম্পর্কে কয়েকটি বিশেষ জ্ঞাতব্য বিষয় :

১। যে সকল ঋণপত্র বা ডিবেঞ্চার (ক) কেন্দ্রীয় সরকার (খ) কোন রাজ্য সরকার (গ) কোন যৌথ মূলধনী কোম্পানী (ঘ) কোন স্থানীয় কর্তৃপক্ষ (Local Authority) বা (ঙ) রাজ্য বা কেন্দ্রীয় সরকার কর্তৃক স্থাপিত কোন পাবলিক কর্পোরেশন কর্তৃক বিলি করা হয় তাহাই কেবল উপরোক্ত "ঋণপত্রের" তালিকাভুক্ত হইবে।

২। পূর্ববর্তী বৎসরে এই ঋণপত্রের উপর সূদ পাওনা হইলেই উহা সেই বৎসরের আয়ের অন্তর্ভুক্ত হইবে।

৩। উক্ত বৎসরের পূর্বে সূদের টাকা পাওনা হওয়ার সময় উহার উপর কর ধার্য হইয়া না থাকিলে—উক্ত বৎসরে সূদের টাকা হাতে পাইলেই উহা সেই বৎসরের আয়ের অন্তর্ভুক্ত হইবে।

৪। কোম্পানীর ডিভিডেন্ডের আয় এই তালিকাভুক্ত হয় না।

৫। আয়কর মুক্ত গভর্নমেন্ট সিকিউরিটির আয় এই তালিকায় মোট আয়ের সঙ্গে যুক্ত হইবে। অদৃশ্য মোট আয়ের সঙ্গে অন্তর্ভুক্ত হওয়ার পরে গড় হারে উক্ত আয়ের উপর প্রদেয় কর মোট প্রদেয় কর হইতে বাধ বাইবে।

৬। “সুদ-সহ” বা “সুদ-ভিন্ন” (“Cum Interest” or “Ex-Interest”) ঋণপত্রের লেনদেন সুদ হিসাবের সময় বৈশিষ্ট্য সৃষ্টি করেনা। অর্থাৎ যেমন, কোন ব্যক্তি “সুদ-সহ” ঋণপত্র ক্রয় করিলে সে ঐ ঋণপত্রের ক্রয় মূল্যের সহিত উহার উপর পাওনা সুদের মূল্যও সে প্রদান করিয়া থাকে। অর্থাৎ সে বিক্রেতার নিকট হইতে “সুদ”ও পৃথক মূল্য দিয়া ক্রয় করিয়াছে। কিন্তু তাহার আয় হিসাবের সময় উক্ত ঋণপত্রের উপর মোট পাওনা সুদ তাহারই আয় বলিয়া ধরিয়া লওয়া হইবে।

৭। কোন বেসরকারী কোম্পানীর ডিবেঞ্চার কখনও আয়কর মুক্ত হইতে পারে না। অবশ্য, ডিবেঞ্চারের উপর সুদ হইতে কোম্পানী অনেক ক্ষেত্রে সর্বোচ্চ হারে আয়কর কাটিয়া লইয়া বাকি সুদ ডিবেঞ্চারের মালিককে প্রদান করে।

এই সকল ক্ষেত্রে কোম্পানী কতক সুদ হইতে আয়কর কাটিয়া লইবার পূর্বে ডিবেঞ্চারের মোট সুদ যাহা ছিল তাহা সম্পূর্ণই (Gross Interest) ডিবেঞ্চারের মালিকের আয় বলিয়া ধরিয়া লইতে হইবে।

আয়কর মুক্ত করার অধিকার থাকে একমাত্র সরকারের। কোন বেসরকারী কোম্পানীর সেই অধিকার থাকে না।

৮। ঋণপত্রের উপর সুদের আয় হইতে যে সকল খরচ বাদ দেওয়া চলে তাহা নিম্নে প্রদত্ত হইল।

(ক) এই সুদ আদায় করিবার জন্ত যে যুক্তিযুক্ত খরচ হইয়া থাকে তাহা বাদ যাইবে। যেদন, সুদ আদায় বাবদ ব্যাঙ্ককে যে কমিশন দিতে হয়।

(খ) ধার করিয়া ঋণপত্র ক্রয় করিলে উক্ত ধারের উপর প্রদেয় সুদ মোট সুদের আয় হইতে বাদ যাইবে।

৯। ব্যাঙ্কিং কোম্পানী ক্ষেত্রে এই সুদ আদায় করিবার জন্ত যত টাকা “যুক্তিযুক্তভাবে” খরচ হয় তাহাই এই সুদের আয় হইতে বাদ যাইবে।

ঋণপত্রের উপর সুদ আদায়ের খরচকে তখনই “যুক্তি সম্মত” বলিয়া গণ্য করা হইবে যখন দেখা যাইবে যে আয়কর আইনের ৩০, ৩১, ৩৬ এবং ৩৭নং ধারা মতে কোম্পানীর মোট গ্রহণ যোগ্য খরচের সহিত ঋণপত্রের সুদ আদায়ের খরচের যে অনুপাত কোম্পানীর বিভিন্ন খাতে মোট আয়ের সহিত ঐ ঋণপত্রের সুদের আয়ের সেই একই অনুপাত বজায় রহিয়াছে।

অর্থাৎ মোট আয়ের ২০% যদি ঋণপত্রের সুদের আয় হয় তাহা হইলে মোট গ্রহণ যোগ্য খরচের ২০% হইবে ঋণপত্রের সুদ আদায়ের খরচ।

১০। আয়কর মুক্ত গভর্নমেন্ট সিকিউরিটির উপর সুদ আদায়ের খরচ উহার উপর সুদ হইতে বাদ দিয়া লইতে হইবে। পরে উহা মোট আয়ের সঙ্গে যুক্ত হইবে।

যেমন মনে কর ৫০০০০ টাকার আয়কর মুক্ত সরকারী সিকিউরিটির উপর মোট ২০০০ টাকা সুদ বাবদ আদায় হইয়াছে। কিন্তু এই ২০০০ টাকা সুদ আদায় করিতে ১০০ খরচ হইয়াছে। তাহা হইলে, এই সিকিউরিটি হইতে প্রকৃত আয় ধরা হইবে ১৯০০ টাকার এবং ইহাই সেই ব্যক্তির মোট আয়ের অধিত যুক্ত হইবে।

Illustrations

Q. 45. Sri B. Das had in his possession the following securities during the previous year ended on 31st. March 1965.

(i) 6% West Bengal Government Loan Bonds	Rs. 25000
(ii) 8% Cumulative Preference Shares of National Glass Work Ltd.	Rs. 40000
(iii) 4½% India Government tax-free Securities	Rs. 20000
(iv) 3½% Municipal Debentures	Rs. 10000
(v) 6% 1 year's Fixed Deposit with the United Bank of India	Rs. 12000

Compute the total income of Sri Das from "Interest on Securities" for the assessment year 1965-66. Interests are receivable on 1st January and 1st July every year.

Ans.

1. Interests on 6% West Bengal Govt. Loan Bonds	Rs. 1500
2. Interests on 4½% India Govt tax-free Securities	Rs. 900
3. Interests on 3½% Municipal Debenture	Rs. 350
Total income from "Interest on Securities"	Rs. 2750

Notes :

1. Dividends on Cumulative Pref. Shares are not to be included in the income from Interest on Securities.

2. Interests on 1 year's Fixed Deposit with the bank also are not be included in the income from Interest on Securities

Rebate : On interests on tax-free Govt. Securities is to be allowed at an average rate

Q. 46. Sri M. Banerjee has purchased the following investment on 1st May, 1964.

✓(i)	5%	Calcutta Improvement Trust Loan	Rs. 40000
✓(ii)	4½%	Debenture of Golap Products Ltd.	„ 10000
✓(iii)	6%	National Defence Bonds	„ 15000
(iv)	5%	Pref. Shares of Calcutta Soap Co. Ltd.	„ 5000
✓(v)	4%	U. P. Govt. Loan Bonds	„ 20000
(vi)	4%	Saving Deposit with Chartered Bank	„ 8000

Sri Banerjee borrowed Rs. 25000 from a bank at 4% On 30th April, 1964 for the purchase of Improvement Trust Loan. He also paid commission to the bank @ 2% on interests collected by it. Interest is payable on 30th. June and 31st. December every year. Compute the total income of Sri Banerjee for the assessment year 1965-66.

Ans.

1. Interests on Calcutta Improvement

Trust Loan Rs. 2000

2. Interests on Debenture of Golap

Products Ltd Rs. 450

3. Interests on U. P. Govt. Loan Bonds Rs. 800

3250

Less 1. Interest on Loan taken for the purchase

of C. I. T. Loan Bonds Rs. 1000

2. Commission for Collection of Rs. 65

interests on securities. $\left(3250 \times \frac{2}{100}\right)$ Rs. 1065

Total income from interest on securities Rs. 2185

Notes.

1. Interest on Savings Bank Deposit and income from dividend on Pref. Shares are not to be included under the head. "Interests on Securities."

2. Interest on National Defence Bond is totally exempted from Income Tax.

Q. 47. Sri P.C. Bhattacharya had in his possession the following investments as at 31st March 1964.

✓(i)	6% Debentures of Calcutta Port Commissioners	=60000
✓(ii)	5% Tax-free Central Govt Securities	=40000
✓(iii)	4½% Madras Govt. Loan Bonds	=10000
✓(iv)	6½% Debenture of Hindusthan Steel Wire products Ltd	=20000
(v)	4% Pref Shares of Bengal Paints Ltd	=15000
(vi)	6½% Two years' fixed deposit with United Commercial Bank of India	=30000

On 1.7.64. he sold out Rs. 10000, 4½% Madras Govt. Loan Bonds and purchased Rs. 30000, 5% West Bengal Govt. Bond. He had to borrow Rs. 20000 from the bank at 3% interest p.a. for the purchase of above securities. Bank charged commission for collection of intersts @ 4% on interests collected by it. He had also borrowed Rs. 40000 from a bank at 4% on 1.1.63 for the purchase of Rs. 40000 5% tax-free securities. A sum of Rs. 6000 was repaid on 1.1.64 and Rs. 14000 on 31.3.64. Interests on securities are payable on 30th June and 31st December every year. Compute the total income of Sri Bhattacharya from interests on securities during the year ended on 31st March 1965.

Ans.

	Rs.
1. Interests on debentures of C.P.C	3600
2. Interests on 4½%. Madras Govt. Loan Bonds (for 6 months)	Rs. 225

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3. Interest on 5% West Bengal Govt Loan Bond (for 6 months)	750
4. 6½% Deb. of Hindusthan Steel Wire Products Ltd.	1300
5. 5% Tax-free Securities	Rs. 2000
Less interest on Loan taken for the purchase of such securities @ 4% on Rs. 20000 „	800
	<u>1200</u>
Less Commission for collection of interest @4% 80	<u>1120</u>
	<u>6995</u>
Less collection charges @ 4% on interest collected(Rs. 5875) = Rs, 235	
„ Int. on Loan taken to purchase 5% W. B. Govt. Loan Bond @ 3% (for 9 months) on Rs. 20000 = Rs. 450	
	<u>685</u>
Total income from Securities	= Rs. 6310

Rebate :

On the net interest-income from

Tax-free Govt Securities at an average rate = Rs. 1120

Notes.

1. Dividend on 4% Pref. Shares and interest on fixed Deposit with the Bank are not be included in the income from interests on securities.

2. Interests payable on loan taken for the purchase of Tax-free Govt Securities and collection charges of interest on such interests are to be deducted first from the interest receiveable form such securities before it can included in the total income from interest on securities.

Q. 48. Sri S. Paul had the following investments in his possession for the previous year ended on 31st March 1965. Ascertain the total income of Sri Paul from interest on securities for the assessment year 1965-66.

1. Rs 80000 5% W. Bengal Govt. Loan Bonds
2. Rs. 40000 6% Calcutta Corporation Debenture
3. Rs. 21000 5½% Pref. Shares of Basanti Jute Mills Ltd.
4. Rs. 30000 6% Tax-free Central Govt. Loan
Certificates.
5. Rs. 15000 7% Debentures of Kiko Ltd

On 1.9.64. he sold the above Rs. 21000 5½% Pref. Shares of Basanti Jute Mill Ltd. and purchased 6% debentures of National Coal Co Ltd. to the extent of Rs. 60000. The additional sum of Rs. 39000 required for the purchase of the above debentures was borrowed from a bank at 5% p.a. The bank charged collection charges 1½% on interests collected by it. The brokerage for buying and selling charged at 2% on each transactions.

Interest on Calcutta Corporation Debentures has been actually received by Sri Paul for 1962-63, 1963-64, 1964-65. The total interest amounted to Rs. 7200.

Interest on dividend on securities, as the case may be, is payable on 31st January and 31st July each year.

Ans.	Rs.
1. Interests on 5% W. B. Govt. Loan Bonds =	4000
2. " " 6% Tax free C. Govt. Loan 1800	
Less Collection charges @ 1½%	<u>27</u> 1773
3. " 6% Calcutta Corpon. Debenture. (for 1 year only)	2400
4. " 7% Debentures of Kiko Ltd	1050
5. " 6% Debenture of National Coal Co. (for half year only)	1800
	<u>11023</u>
Less Collection Charges @ 1½% on interests collected	
= 1½% of (4000 + 2400 + 1050 + 1800) = Rs. 138.75	
Interest on Loan taken to purchase Debenture of National Coal Co Ltd. (5% on Rs. 39000 for 7 months) "	<u>1137.50</u> 1276.25
	Rs. <u>9746.75</u>

Rebate :

Interest on 6% Tax-free C. Govt. Securities at an average rate although it is included in the total income from interests on securities.

Notes. 1. Interests on Calcutta Corporation Debentures for the past two earlier previous year should have already been taxed on 'Due' basis. So the interest when actually received has not been included in the income of Sri Paul.

2. Dividend income on Pref. Share is not to be included under this head.

3. The expenses on account of brokerage cannot be deducted from the income from interest on securities.

CHAPTER IV

HEADS OF INCOME—INCOME FROM HOUSE PROPERTY

The following incomes from house property are **not liable to Tax**.

(1) Income derived from any building owned and occupied by the cultivator as a dwelling house or store house and situated on or in the immediate vicinity of the agricultural land under Section 2 (1)

(ii) Income derived from property held under trust for religious or charitable purposes to the extent to which such income is applied to such purposes in India.

(iii) Income derived from the property occupied by the assessee for the purposes of his business or profession.

(iv) Income from one residential house which can not be actually occupied by the owner during the whole of the previous year by reason of his unemployment, business or profession carried on at any other place.

(v) Income received by a Co-Operative Society by letting godowns or warehouses etc.

(vi) Income of an authority constituted under any Act for the marketing of commodities, when such income is derived by letting godowns or warehouses etc.

(vii) Income derived from house property by Co-Operative society provided the income of such society does not exceed Rs. 20000 and the society is not engaged in Carrying on transport or in manufacturing with the aid of power.

Important Points in Computing Income from House Property :

(1) House property means buildings and lands attached thereto of which assessee is the owner.

(2) When the property or any portion of such property is occupied by the assessee for the purpose of any business

or profession carried on by him, the profits of which are chargeable to income tax, the Annual Value of such property shall be taken as 'NIL'.

(3) Any income from an isolated vacant plot shall not be charged under this head—it shall be charged under the head 'Income from other Sources'.

(4) The House Property may either be let out or occupied by the assessee himself. In both cases the assessee will have to pay tax on the Annual Value ; but method of calculation shall be different.

(5) Certain expenses are allowed to be deducted from the Annual Value of the Property in order to compute the net income from House Property. But in no case any loss from House Property shall be allowed.

(6) In case of Property jointly owned by several persons and respective shares are definite and ascertainable, their respective income shall not be assessed as 'an Association of Persons' but shall be computed in accordance with this section and shall be included in the total income of each.

(a) Full amount of local taxes in respect of house constructed before the 1st April 1950.

(b) 50% of the local taxes in respect of house constructed after the 1st April 1950.

Rs. 1,800/-or 50% of the above value (after deducting taxes) which ever is less shall be deducted from the Annual Value. The sum so reduced shall not exceed 10% of the total income of the assessee, and if the amount exceeds 10% of the total income then the Annual Value shall be 10% of the total income.

Method Of Calculation Of 10% Of Total Income :

The following formula may be conveniently used :—

10% of $\frac{12}{11}$ of net income from other sources.

To find out the net income all admissible expenses and deductions shall be excluded from the gross income from other sources, such as Fire Insurance Premium on House Property, Land Revenue, Interest on Loan for borrowed money, Ground Rent, Interest on Loan on Mortgage of the House, Collection Expenses upto 6% and Vacancy allowance.

The formula stands as follows :—

$$\frac{10}{100} \times \frac{12}{11} \{ (\text{Income from other sources—(admissible deductions as explained above)}) \}$$

From this figure as determined the following deductions are allowed as per section 24 of the Act.

(1) $\frac{1}{8}$ th of the Annual Value for Repairs.

It is immaterial whether any amount has been spent on repairs or not. When the tenant bears the cost of repairs the excess of Annual Value over rent shall be taken to be repairing charge subject to $\frac{1}{8}$ th of the Annual Value. For further discussion see page 101.

(2) Insurance Premium :

Any sum paid as premium to insure the property against the risk of fire or damage or destruction.

(3) Interest On Loan On Mortgage :

Any sum paid as interest on Loan on Mortgage of the house property. The purpose of such loan is immaterial in this case.

(4) Interest On Loan Borrowed For Construction Purpose ;

Interest on Loan borrowed for the purpose of construction, acquisition, renewal, repair or re-construction of the House Property.

(5) Ground Rent :

Ground Rent payable to the owner of the land.

(6) Land Revenue :

Land Revenue payable to any State Government.

(7) Collection Charge :

Collection charges including legal expenses necessary for realisation of rent upto 6 % of the Annual Value.

(8) The amount of bad debt (bonafide sum un-realised). For detail discussions see page 102.

(9) Vacancy allowance for the portion of the year the house remaining vacant. For detail discussion see page 100.

(10) Where the property is subject to an annual charge of a revenue nature such charge will also be deducted provided it is not a capital charge.

The Bonafide Annual Value Of House Property :

As per Section 23 (1), the Annual Value of any property shall be deemed to the sum for which the property might reasonably be expected to let from year to year.

The Annual Value of the Property shall be ascertained on the basis of the following factors ;—

- (i) Municipal value of the property ;
- (ii) Actual rent received ;
- and (iii) The rent paid for similar properties in the locality or in the near locality.

This Annual Value of the House Property as determined under Section 23 (1) is subject to the following adjustments.

(i) In case of property let out and subject to local tax including service taxes paid by the owner, the following deductions are allowed from the House Property.

(a) Full amount of local taxes in respect of the house constructed before the 1st April 1950.

(b) 50% of the local taxes in respect of house constructed after the 1st April 1950.

After the above deduction full amount of Annual Value or Rs. 600/, which ever is less, shall be deducted provided the erection of the building begun or completed after the 1st April 1961 and such benefit is allowed for three years only,

(ii) In respect of house occupied by the assessee himself and subject to local taxes including service tax paid by the owner, the following deductions are allowed from the Annual Value.

Owner of House Property

It is not only the legal owner but also the following persons who are liable to pay tax on the income from his house property.

1. An individual who transfers otherwise than for adequate consideration any house property to his wife or (a wife) to her husband, not being a transfer in connection with an agreement to live apart, shall be deemed to be the owner of the house property so transferred.

2. An individual who transfers otherwise than for adequate consideration any house property to a minor child not being a married daughter, shall be deemed to be the owner of the house property so transferred.

3. The holder of an impartible estate shall be deemed to be the individual owner of all the properties comprised in the estate.

4. A member of a Co-operative society to whom a building or part thereof is allotted on leased under a house-building scheme of the society shall be the owner of that building or part thereof.

Vacancy allowance :

1. Where the property consists of one **residential house** only and it can not actually be occupied by the owner by reason of employment, business or profession carried on at other place (i) the annual value of the house shall be taken to nil if the house can not be actually occupied during the whole previous year but (ii) the value shall be taken to be that fraction of that annual value where it is actually

occupied for a fraction of the previous year provided the following conditions are fulfilled.

- (a) the house is not actually let.
- (b) no other benefit therefrom is derived by the owner.

2. (i) Where the property is let and was vacant during a part of the year, that part of the annual value which is proportionate to the period during which the property is wholly unoccupied shall be deducted from the annual value of the property in computing the net income from house property.

(ii) Where the property is let out in parts that portion of the annual value appropriate to any vacant part, which is proportionate to the period during which such part is wholly unoccupied shall be deducted from the annual value of the property.

Repairs :

Where the property is in the occupation of the owner or when the property is let to a tenant and the owner has undertaken to bear the cost of repairs, a sum equal to one sixth of the value shall be deducted from the value.

When the property is in the occupation of a tenant who has undertaken to bear the cost of repairs, the excess of the annual value over the amount of rent payable for a year by the tenant or a sum equal to one-sixth of the annual value whichever is less shall be deducted.

Suppose that the fair rent of a house amounts to Rs. 6000 p. m. and the rent actually paid by the tenant amounts to Rs. 5435 as the tenant has undertaken to bear the cost of repair. The amount of deduction on account of repairing charge will be Rs. $(6000 - 5435) = 565$ because $\frac{1}{6}$ of the annual value is higher than this amount.

Property owned by Co-owners :

Where the property is owned by two or more persons and their respective shares are definite and ascertainable such persons shall not in respect of such property be assessed as

an association of persons but the share of each such person in the income from the property shall be included in his total income.

Unrealised Rent :

An unrealised rent in respect of any property shall be allowed as deduction from the annual value of the house if the following conditions are fulfilled.

- (i) the tenancy is bonafide.
- (ii) the defaulting tenant has vacated or steps have been taken to compel him to vacate the property.
- (iii) the defaulting tenant is not in occupation of any other property of the assessee.
- (iv) the assessee has taken all reasonable steps to institute legal proceedings for the recovery of unpaid rent or satisfies the Income Tax Officer that legal proceedings would be useless, and
- (v) the annual value of the property to which the unpaid rent relate was included in the assessed income of the year for which that was due and Income Tax has been duly paid on such assessed income.

Income from House property let out to tenants.

1. Gross Annual value (fair rent)	.....
<i>Less</i> Local Taxes	.....
(full amount of taxes if the house was constructed before 1.4.50 or 50% of such taxes if the house was constructed after that date )	.....
<i>Less</i> Statutory deductions	.....
(Rs 600 or 50% of the above value, whichever is less, if the construction of the house has begun or completed after 1.4.61. This benefit will be available only for 3 years after such construction)	.....

<i>Less</i> Repairing charge	.....
$\frac{1}{8}$ of the above value irrespective of the actual amount of repairs.	.....
or	
When the tenant has undertaken to bear the cost of repair, (Annual value – Actual rent paid) or $\frac{1}{8}$ of the annual value, which ever is less }	
<i>Less</i> {Fire Insurance Premium on the house + Interest on loan taken for the construction or reconstruction of the house + Interest on loan taken on mortgage of the house + Ground rent + Land revenue + Annual charge + Collection charge (maximum 6%) + Vacancy allowance + unrealised rent}	.....
Net Income from House Property	.....

Income from Residential House occupied by the owner

1. Gross Annual value	.....
2. <i>Less</i> Local taxes	.....
(full amount of taxes if the house was constructed before 1.4.50 or 50% of such taxes if the house was constructed after that date.	.....
3. <i>Less</i> Statutory deduction (Rs. 1800 or 50% of the above value whichever is less )	.....

The value thus obtained above must not exceed 10% of the total income. If the above value is less than 10% of the total income then the following deductions shall be allowed from such value.

4. <i>Less</i> Repairing charge	.....
($\frac{1}{8}$ of the above value irrespective of the actual amount of repair)	
5. <i>Less.</i> (Fire-insurance premium+	.....
Interest on loan taken for construction and reconstruction of the house+	
Interest on loan taken on mortgage of the house+Land revenue+Ground rent+	
Vacancy allowance+Annual Charge)	<hr/>
Net income from House property	.....

Where the Annual Value of the house as reduced by municipal taxes and statutory deductions exceeds 10% of the total income of the assessee, then 10% of the total income of the house property shall be taken to be the annual value of the house.

Annual value = 10% of $\frac{11}{12}$ of other incomes so far known

$$\text{Annual value} = \frac{10}{100} \times \frac{12}{11} \text{ of } \{ \text{Other incomes} - (\text{Ground rent} + \text{Land revenue} + \text{Interest on loan taken for the house} + \text{Insurance premiums} + \text{vacancy allowance etc.}) \} \text{ for this house}$$

<i>Less</i> $\frac{1}{8}$ of the above value for repairs	.....
<i>Less</i> {Ground rent+Land revenue	.....
+Interest on loan for the house	
+Insurance premium+vacancy	
allowance etc.}	<hr/>
Net income from House Property	.....

বাড়ী হইতে আয় (Income from House Property)

বাড়ীর আয় সম্পর্কে কয়েকটি জ্ঞাতব্য বিষয় :

১। করদাতার নিজস্ব বাড়ী থাকিলে প্রথমত বাড়ীর গ্রায়েসজত বার্ষিক মূল্য নির্ধারণ করিতে হয়। বাড়ী ভাড়া দিয়া প্রতি বৎসর বাড়ী হইতে যে গ্রায়েসজত ভাড়া আশা করা যায় তাহাকেই বাড়ীর বার্ষিকমূল্য (Annual value) বলা হয়। মিউনিসিপ্যালিটি উহার কর আদায়ের ভিত্তিস্বরূপ প্রতিটি বাড়ীর এইরূপ একটি বার্ষিকমূল্য নির্ধারণ করিয়া থাকে।

প্রকৃত পক্ষে যত টাকায় বাড়ী ভাড়া দেওয়া হয় তাহাকেও অনেক ক্ষেত্রে বার্ষিক মূল্য ধরা হয় না। কারণ গ্রায়েসজত ভাড়া হইতে উহা অনেক ক্ষেত্রে অনেক কম বা অনেক বেশী হইয়া থাকে।

অতএব মিউনিসিপ্যালিটির নির্ধারিত বার্ষিক মূল্য, প্রকৃত ভাড়া এবং অত্যাশ্রয় স্থানীয় সমতুল্য বাড়ীর ভাড়া—এই সব কিছুকে ভিত্তি করিয়াই বাড়ীর গ্রায়েসজত বার্ষিক মূল্য নির্ধারণ করিতে হয়।

২। বাড়ী ভাড়ার আয় বলিতে—বাড়ী ও তৎসংলগ্ন জমির ভাড়া বোঝায়।

৩। করদাতা তাহার নিজস্ব বাড়ীতে কোন ব্যবসায় পরিচালনা করিলে এবং ঐ ব্যবসায়ের আয়ের উপর কর প্রদেয় হইলে ঐ বাড়ীর ভাড়ার আয় কিছুই ধরা হয় না।

৪। একমাত্র বাড়ীর মালিকেরই বাড়ী ভাড়ার আয় হইতে পারে।

৫। বাড়ীর ভাড়া হইতে আয় না হইলেও ক্ষতি কখনও আইনে স্বীকার করা হয় না।

৬। পূর্বেই বলা হইয়াছে যে বাড়ী ভাড়ার আয় সম্পর্কে কেবলমাত্র “বাড়ীর মালিকের” উপরই কর ধার্য হয়। বাড়ীর মালিক বলিতে একমাত্র সাধারণ আইনে স্বীকৃত বাড়ীর মালিককেই বোঝায় না। আয়কর আইন মতে নিয়ন্ত্রিত ব্যক্তিগণকেও বাড়ীর মালিক বলিয়া গণ্য করা হয় এবং তাহাদের ঐ বাড়ীর ভাড়ার উপর আয়কর ধার্য হয়।

(ক) উপযুক্ত মূল্য না পাইয়াই যদি কোন ব্যক্তি তাহার স্ত্রীকে বা স্ত্রী তাহার স্বামীকে কোন বাড়ী হস্তান্তর করিয়া থাকে এবং এই হস্তান্তর যদি স্বামী স্ত্রী পরস্পর পৃথক থাকার শর্তাধীনে না ঘটয়া থাকে তাহা হইলে আয়কর আইনে এইরূপ হস্তান্তরকে স্বীকৃতি দেওয়া হয় না। অর্থাৎ এই হস্তান্তরের পূর্বে যে

4. <i>Less</i> Repairing charge	.....
($\frac{1}{8}$ of the above value irrespective of the actual amount of repair)	
5. <i>Less.</i> (Fire-insurance premium+	.....
Interest on loan taken for construction and reconstruction of the house+	
Interest on loan taken on mortgage of the house+Land revenue+Ground rent+	
Vacancy allowance+Annual Charge)	_____
Net income from House property	.....

Where the Annual Value of the house as reduced by municipal taxes and statutory deductions exceeds 10% of the total income of the assessee, then 10% of the total income of the house property shall be taken to be the annual value of the house.

Annual value = 10% of $\frac{12}{11}$ of other incomes so far known

$$\text{Annual value} = \frac{10}{100} \times \frac{12}{11} \text{ of } \{ \text{Other incomes} - (\text{Ground rent} + \text{Land revenue} + \text{Interest on loan taken for the house} + \text{Insurance premiums} + \text{vacancy allowance etc.}) \} \text{ for this house}$$

<i>Less</i> $\frac{1}{8}$ of the above value for repairs	.....
<i>Less</i> {Ground rent+Land revenue	.....
+Interest on loan for the house	
+Insurance premium+vacancy	_____
allowance etc.}	
Net income from House Property	.....

বাড়ী হইতে আয় (Income from House Property)

বাড়ীর আয় সম্পর্কে কয়েকটি জ্ঞাতব্য বিষয় :

১। করদাতার নিজস্ব বাড়ী থাকিলে প্রথমত বাড়ীর গ্রামসম্বন্ধে বার্ষিক মূল্য নির্ধারণ করিতে হয়। বাড়ী ভাড়া:দিয়া প্রতি বৎসর বাড়ী হইতে যে গ্রাম সম্বন্ধে ভাড়া আশা করা যায় তাহাকেই বাড়ীর বার্ষিকমূল্য (Annual value) বলা হয়। মিউনিসিপ্যালিটি উহার কর আদায়ের ভিত্তিস্বরূপ প্রতিটি বাড়ীর এইরূপ একটি বার্ষিকমূল্য নির্ধারণ করিয়া থাকে।

প্রকৃত পক্ষে যত টাকায় বাড়ী ভাড়া দেওয়া হয় তাহাকেও অনেক ক্ষেত্রে বার্ষিক মূল্য ধরা হয় না। কারণ গ্রাম সম্বন্ধে ভাড়া হইতে উহা অনেক ক্ষেত্রে অনেক কম বা অনেক বেশী হইয়া থাকে।

অতএব মিউনিসিপ্যালিটির নির্ধারিত বার্ষিক মূল্য, প্রকৃত ভাড়া এবং অগ্রাশ্রয় স্থানীয় সমতুল্য বাড়ীর ভাড়া—এই সব কিছুকে ভিত্তি করিয়াই বাড়ীর গ্রামসম্বন্ধে বার্ষিক মূল্য নির্ধারণ করিতে হয়।

২। বাড়ী ভাড়ার আয় বলিতে—বাড়ী ও তৎসংলগ্ন জমির ভাড়া বোঝায়।

৩। করদাতা তাহার নিজস্ব বাড়ীতে কোন ব্যবসায় পরিচালনা করিলে এবং ঐ ব্যবসায়ের আয়ের উপর কর প্রদেয় হইলে ঐ বাড়ীর ভাড়ার আয় কিছুই ধরা হয় না।

৪। একমাত্র বাড়ীর মালিকেরই বাড়ী ভাড়ার আয় হইতে পারে।

৫। বাড়ীর ভাড়া হইতে আয় না হইলেও ক্ষতি কখনও আইনে স্বীকার করা হয় না।

৬। পূর্বেই বলা হইয়াছে যে বাড়ী ভাড়ার আয় সম্পর্কে কেবলমাত্র “বাড়ীর মালিকের” উপরই কর ধার্য হয়। বাড়ীর মালিক বলিতে একমাত্র সাধারণ আইনে স্বীকৃত বাড়ীর মালিককেই বোঝায় না। আয়কর আইন মতে নিয়মিত ব্যক্তিগণকেও বাড়ীর মালিক বলিয়া গণ্য করা হয় এবং তাহাদের ঐ বাড়ীর ভাড়ার উপর আয়কর ধার্য হয়।

(ক) উপযুক্ত মূল্য না পাইয়াই যদি কোন ব্যক্তি তাহার স্ত্রীকে বা স্ত্রী তাহার স্বামীকে কোন বাড়ী হস্তান্তর করিয়া থাকে এবং এই হস্তান্তর যদি স্বামী স্ত্রী পরস্পর পৃথক থাকার শর্তাধীনে না ঘটয়া থাকে তাহা হইলে আয়কর আইনে এইরূপ হস্তান্তরকে স্বীকৃতি দেওয়া হয় না। অর্থাৎ এই হস্তান্তরের পূর্বে যে

4. <i>Less</i> Repairing charge	.....
($\frac{1}{8}$ of the above value irrespective of the actual amount of repair)	
5. <i>Less.</i> (Fire-insurance premium+	.....
Interest on loan taken for construction and reconstruction of the house+	
Interest on loan taken on mortgage of the house+Land revenue+Ground rent+	
Vacancy allowance+Annual Charge)	_____
Net income from House property	.....

Where the Annual Value of the house as reduced by municipal taxes and statutory deductions exceeds 10% of the total income of the assessee, then 10% of the total income of the house property shall be taken to be the annual value of the house.

Annual value = 10% of $\frac{12}{11}$ of other incomes so far known

$$\text{Annual value} = \frac{10}{100} \times \frac{12}{11} \text{ of } \{ \text{Other incomes} - (\text{Ground rent} + \text{Land revenue} + \text{Interest on loan taken for the house} + \text{Insurance premiums} + \text{vacancy allowance etc.}) \} \text{ for this house}$$

Less $\frac{1}{8}$ of the above value for repairs

Less {Ground rent+Land revenue
+Interest on loan for the house
+Insurance premium+vacancy
allowance etc.}

Net income from House Property

বাড়ী হইতে আয় (Income from House Property)

বাড়ীর আয় সম্পর্কে কয়েকটি জ্ঞাতব্য বিষয় :

১। করদাতার নিজস্ব বাড়ী থাকিলে প্রথমত বাড়ীর গ্রায়েসভত বার্ষিক মূল্য নির্ধারণ করিতে হয়। বাড়ী ভাড়া:দিয়া প্রতি বৎসর বাড়ী হইতে যে গ্রায়েসভত ভাড়া আশা করা যায় তাহাকেই বাড়ীর বার্ষিকমূল্য (Annual value) বলা হয়। মিউনিসিপ্যালিটি উহার কর আদায়ের ভিত্তিস্বরূপ প্রতিটি বাড়ীর এইরূপ একটি বার্ষিকমূল্য নির্ধারণ করিয়া থাকে।

প্রকৃত পক্ষে যত টাকায় বাড়ী ভাড়া দেওয়া হয় তাহাকেও অনেক ক্ষেত্রে বার্ষিক মূল্য ধরা হয় না। কারণ গ্রায়েসভত ভাড়া হইতে উহা অনেক ক্ষেত্রে অনেক কম বা অনেক বেশী হইয়া থাকে।

অতএব মিউনিসিপ্যালিটির নির্ধারিত বার্ষিক মূল্য, প্রকৃত ভাড়া এবং অগ্রাগ্র স্থানীয় সমতুল্য বাড়ীর ভাড়া—এই সব কিছুকে ভিত্তি করিয়াই বাড়ীর গ্রায়েসভত বার্ষিক মূল্য নির্ধারণ করিতে হয়।

২। বাড়ী ভাড়ার আয় বলিতে—বাড়ী ও তৎসংলগ্ন জমির ভাড়া বোঝায়।

৩। করদাতা তাহার নিজস্ব বাড়ীতে কোন ব্যবসায় পরিচালনা করিলে এবং ঐ ব্যবসায়ের আয়ের উপর কর প্রদেয় হইলে ঐ বাড়ীর ভাড়ার আয় কিছুই ধরা হয় না।

৪। একমাত্র বাড়ীর মালিকেরই বাড়ী ভাড়ার আয় হইতে পারে।

৫। বাড়ীর ভাড়া হইতে আয় না হইলেও ক্ষতি কখনও আইনে স্বীকার করা হয় না।

৬। পূর্বেই বলা হইয়াছে যে বাড়ী ভাড়ার আয় সম্পর্কে কেবলমাত্র “বাড়ীর মালিকের” উপরই কর ধার্য হয়। বাড়ীর মালিক বলিতে একমাত্র সাধারণ আইনে স্বীকৃত বাড়ীর মালিককেই বোঝায় না। আয়কর আইন মতে নিম্নলিখিত ব্যক্তিগণকেও বাড়ীর মালিক বলিয়া গণ্য করা হয় এবং তাহাদের ঐ বাড়ীর ভাড়ার উপর আয়কর ধার্য হয়।

(ক) উপযুক্ত মূল্য না পাইয়াই যদি কোন ব্যক্তি তাহার স্ত্রীকে বা স্ত্রী তাহার স্বামীকে কোন বাড়ী হস্তান্তর করিয়া থাকে এবং এই হস্তান্তর যদি স্বামী স্ত্রী পরস্পর পৃথক থাকার শর্তাধীনে না ঘটয়া থাকে তাহা হইলে আয়কর আইনে এইরূপ হস্তান্তরকে স্বীকৃতি দেওয়া হয় না। অর্থাৎ এই হস্তান্তরের পূর্বে যে

বেকুপ সম্পত্তির মালিক ছিল তাহাকে সেইরূপ সম্পত্তির মালিক বলিয়াই ধরা হইবে।

(খ) উপযুক্ত মূল্য না পাইয়া যদি কোন ব্যক্তি তাহার বিবাহিতা কন্যা ব্যতিরেকে অথবা কোন নাবালক বা নাবালিকা সন্তানকে সম্পত্তি হস্তান্তর করিয়া দেয় তাহা হইলে এই হস্তান্তর আয়কর আইনে গ্রাহ্য হয় না এবং ঐ ব্যক্তিকেই সম্পত্তির মালিক বলিয়া ধরা হয়।

(গ) অবিভাজ্য ভূসম্পত্তির দখলকারীকে ঐ সম্পত্তির সমগ্র অংশের একমাত্র মালিক বলিয়া ধরা হয়।

(ঘ) কোন সমবায় সমিতি যদি তাহার গৃহনির্মাণ পরিকল্পনায় উহার কোন সদস্যকে কোন বাড়ী বা উহার অংশ বণ্টন করিয়া দেয় তাহা হইলে উক্ত সদস্যকে ঐ বাড়ী বা অংশের মালিক বলিয়া ধরা হয়।

বাড়ীর বার্ষিক মূল্যের সমগ্র অংশের উপরই কর ধার্য হয় না।

বাড়ীর আয় নির্ধারণের দুইটি পদ্ধতি আছে। বাড়ী অপরের নিকট ভাড়া দিলে তাহা হইতে আয় নির্ধারণের একপ্রকার পদ্ধতি, আবার বাড়ীতে মালিক নিজে থাকিলে তাহার পদ্ধতি আর এক প্রকার।

বাড়ী ভাড়া দিলে তাহার নিম্নরূপ পদ্ধতি :—

- | | | |
|----|---|-------|
| ১। | বাড়ীর বার্ষিক মূল্য বা গ্রাম সঙ্গত বার্ষিক ভাড়া | ..... |
| ২। | বাদ—মিউনিসিপ্যালিটির কর | ..... |
| | (বাড়ীটি ১৯৫০ সালের ১লা এপ্রিলের পূর্বে | ..... |
| | নির্মিত হইয়া থাকিলে সম্পূর্ণ কর বিয়োগ হইবে। | |
| | আর ১৯৫০ সালের ১লা এপ্রিলের পরে নির্মিত | |
| | হইলে অর্ধ কর বিয়োগ হইবে।) | |
| ৩। | বাদ—বিধিসম্মত বিশেষ বাদ | ..... |
| | (বাড়ীটির নির্মাণ কার্য ১৯৬১ সালের ১লা এপ্রিলের | |
| | পরে আরম্ভ বা সমাপ্ত হইয়া থাকিলে এই সুবিধাটি | |
| | পাওয়া যাইবে—৬০০/- বা উপরোক্ত দ্বিতীয় | |
| | পর্যায়ের অর্ধেক মূল্য—এই দুইটির মধ্যে যাহা | |
| | অপেক্ষাকৃত কম তাহা বিয়োগ হইয়া থাকে।) | |

৪।	বাদ—মেরামত খরচ	.....
	(তৃতীয় পর্যায়ের বাড়ীর মূল্যের ৬ ভাগ বিশেষ হইয়া থাকে, প্রকৃত খরচ বাহাই হউক না কেন )	.....
৫।	বাদ—বাড়ীর বোমার প্রিমিয়াম	.....
৬।	„ বাড়ীর বন্ধকের ধারের সুদ (যে কারণেই বাড়ী বন্ধক দেওয়া হউক না কেন )	.....
৭।	„ ভাড়া আদায়ের খরচ (মূল ভাড়ার ৬% ভাগই সর্বোচ্চ পরিমাণ )	.....
৮।	„ জমির ভাড়া ও জমির খাজনা	.....
৯।	„ ধারের উপর সুদ (ধার করিয়া বাড়ী করিলে বা উহার মেরামত বা পুনর্গঠন করিলে উক্ত ধারের উপর সুদ )	.....
১০।	„ বাড়ীর অগ্রাণু বার্ষিক খরচ	.....
১১।	„ অনাদায়ী ভাড়া	.....
১২।	„ বাড়ী ফাঁকা থাকার জন্য বাদ	.....
	বাড়ী ভাড়ার নীট আয়	.....

বাড়ীতে মালিক নিজে থাকিলে তাহার নিম্নরূপ পদ্ধতি :—

১।	বাড়ীর স্থায় সঙ্গত বার্ষিক মূল্য (ভাড়া )	.....
২।	বাদ—মিউনিসিপ্যালিটির কর (১৯৫০ সালের ১লা এপ্রিলের পূর্বে বাড়ীটি নির্মিত হইলে মিউনিসিপ্যালিটির সম্পূর্ণ কর বাদ হইবে। আর উহার পরে নির্মিত হইলে অর্ধেক কর বাদ হইবে। )	.....

৩।	বান্ধ—বিধিসম্মত বান্ধ	.....
	(২য় পর্যায়ের মূল্যের ৫০% ভাগ বা ১৮০০—	.....
	ইহাদের মধ্যে যাহা অপেক্ষাকৃত কম ।)	
	৩য় পর্যায়ে বাড়ীর এই বার্ষিক মূল্য করদাতার	
	সর্বমোট নীট আয়ের শতকরা ১০ ভাগের	
	বেশী হইতে পারিবেনা । যদি উহা মোট	
	নীট আয়ের শতকরা ১০ ভাগের কম হয়	
	তাহা হইলে—উক্ত মূল্য হইতে নিম্নের	
	খরচগুলি বাদ হইয়া যাইবে ।	
৪।	বান্ধ—মেরামতের খরচ	.....
	(তৃতীয় পর্যায়ের মূল্যের $\frac{১}{৬}$ ভাগ)	
৫।	বান্ধ—জমির ভাড়া ও খাজনা	.....
৬।	ধারের উপর সুদ	.....
	(বাড়ীর বন্ধক রাখিয়া ধার, অথবা বাড়ীর	
	ভৈর্যারী করার জন্য ধার অথবা মেরামত	
	বা পূর্ণগঠনের জন্য ধারের উপর সুদ)	
৮।	বাড়ী বীমার প্রিমিয়াম	.....
৯।	বাড়ী ফাঁকা থাকার জন্য বান্ধ	.....
	মোট নীট আয়	.....

পূর্বোক্ত পদ্ধতিতে নির্দ্ধারিত ৩নং পর্যায়ে বাড়ীর বার্ষিক মূল্য করদাতার সর্বমোট নীট আয়ের ১০%কে অতিক্রম করিলে নিম্ন পদ্ধতিতে বাড়ীর আয় হিসাব করা হয় ।

বাড়ী ভিন্ন অগ্ন্যাগ্ন মোট নীট আয়ের $\frac{১২}{১১}$ এর ১০% = বাড়ীর আয়

১। অর্থাৎ বাড়ীর মোটামুটি আয় = $\frac{১০}{১০০} \times \frac{১২}{১১} \times$ এই বাড়ী ভিন্ন অগ্ন্যাগ্ন

সুত্র হইতে মোট নীট আয়

২। বান্ধ—মেরামতের খরচ
(১নং পর্যায়ে বাড়ীর মূল্যের $\frac{১}{৬}$ ভাগ)

৩। বাদ—জমির ভাড়া ও খাজনা	.....
ধারের উপর সুদ	.....
(বাড়ী বন্ধক রাখিয়া অথবা বাড়ী তৈয়ারী বা পুনর্গঠনের জন্য ধার করিলে)	
বাড়ী ফাঁকা থাকার জন্য বাদ	.....
বাড়ীর বীমার প্রিমিয়াম	.....
বাড়ী হইতে নীট আয়	.....

বাড়ী ভিন্ন অন্যান্য স্থল হইতে নীট আয় বলিতে এই বোঝায় যে অন্যান্য মোট আয় হইতে এই বাড়ী সম্পর্কে বিভিন্ন আইন সঙ্কত খরচ বাদ দিয়া যে পরিমাণ নীট আয় দাঁড়ায় তাহাই। অন্যান্য মোট আয় বিয়োগ (জমির ভাড়া ও খাজনা + বাড়ীর জন্য ধারের উপর সুদ + বাড়ীর বীমার জন্য প্রিমিয়াম + বাড়ী ফাঁকা থাকার বাদ ইত্যাদি)

Q. 49. In the year ended March 31, 1965, an unmarried individual was employed in an office and drew a salary of Rs. 550 per month. He lived in his own house of which the municipal valuation was Rs. 1200. He also had a gross income of Rs. 1,100 from dividends in the company shares held by him. Calculate his total income for the purpose of Income-Tax. [C. U. Degree Course. B. Com. 1963]

Ans. His income from House Property :—	Rs.
Annual value of the house	1200
Less Statutory deduction (50% of the value)	<u>600</u>
(As Rs. 600 is less than 10% of the total income)	
Hence this value will stand.	Rs. 600
Less Repairing Charge ($\frac{1}{8}$ of the above value)	<u>100</u>
Net income from House Property =	500
Add income from salary =	6600
Add income from dividend =	<u>1100</u>
Total income from all sources =	8200

Q. 50. In the year ended March 31, 1965, a person owns two houses, one of which he uses for his own residence (municipal valuation on rental basis, Rs. 3,600) and the other he lets out at a rental of 200/-per month, his income from company dividends, after deduction of income tax at 30% is Rs. 2,800 ; his income from other sources is Rs. 239. Calculate his total income for the assessment year 1965-66. (C. U. Degree Course B. Com. 1964)

Part II

Aus.

Income from House Property let out :—

Annual Rental Value	Rs. 2400
Less Statutory deduction (50% or Rs. 600), whichever is less	„ 600
	1800

Less Repairing Charge ($\frac{1}{8}$ of the above value)	300
Net income from house property let out	Rs. 1500

Income from the house used for his own residence.

Annual value of the house (on the basis of Municipal valuation)	Rs. 3600
Less statutory deduction (50%, or Rs 1800 whichever is less)	„ 1800
	Rs. 1800

As Rs. 1800 exceeds 10% of the total income, so only 10% of the total income is to be counted as his income from residential house.

$$\text{Annual value} = \frac{10}{100} \times \frac{12}{11} \text{ of Income from other sources,}$$

$$\text{on Gross Income} = \frac{10}{100} \times \frac{12}{11} \times 5739 = \text{Rs. } 626.07$$

Less Repairing charge ($\frac{1}{8}$ of the above value) 104'34

Net Income from residential house	Rs. 521'73
Income from Dividends (Grossed up)	„ 4000'00
Income from other sources.	„ 239 00
Net Income from house let out	„ 1500'00
Net income from all sources	„ <u>6260'73</u>

Notes. 1. Income from sources other than that from residential house. Rs. $(1500 + 4000 + 239) =$ Rs. 5739

2. Dividend grossed up $= (\frac{2800 \times 100}{70})$ „ 4000

3. It is assumed that the house let out has been constructed after 1.4.61.

Q. 51, Sri Hiralal has in his possession several house properties. The annual rental value of these properties amounts to Rs. 30000 (including Rs. 8000 for a house where he resides). He claims the following expenses.

(1) Rs. 150 for insurance premium (2) Rs. 800 for interest on mortgage (3) Rs. 600 for vacancy allowance, (4) Rs. 30 for ground rent (5) Rs. 20 for land revenue (6) Rs. 1500 for rent collection charges (7) Municipal taxes Rs. 5000 in respect of houses let out.

Ascertain the tax liability of Sri Hiralal for the assessment year 1965-66. It is assumed that Sri Hiralal has no other income.

[Prepared according to Question of B. Com. Rajasthan 1956.]

Ans.

Income from house properties let out as under :—

Annual value of the houses	Rs. 22000
Less Full Municipal Taxes	„ 5000
	<u>17000</u>

Annual value of the house occupied for
own residence 8000

Less Statutory deduction (50% or Rs 1800 whichever is less)	1800
	<u>6200</u>

As Rs. 6200 exceeds 10% of the total income, so 10% of the total income shall be the annual value of the house occupied by him.

$$\begin{aligned}\text{Annual value} &= \frac{10}{100} \times \frac{12}{11} \text{ of income from other sources} \\ &= \frac{10}{100} \times \frac{12}{11} \times \{17000 - (600 + 800 + 150 + 30 + 20 + 1320 + 2833.33)\} \\ &= \frac{10}{100} \times \frac{12}{11} \text{ of } 11246.67 = \text{Rs. } 1226.90 \\ &\qquad\qquad\qquad 18226.90\end{aligned}$$

Less

1. $\frac{1}{8}$ of the above value for repairs	Rs. 3037.80
2. Insurance premium	„ 150.00
3. Vacancy allowance	„ 600.00
4. Interest on mortgage	„ 800.00
5. Land revenue and ground rent	„ 50.00
6. Collection charges. (maximum 6% of the rental value of Rs. 22000)	„ 1320.00
	<hr/> 5957.80
Total income from all sources	Rs. 12269.10

Notes : 1. Collection charges limited to 6% of rental value = Rs. 22000 $\times \frac{6}{100}$ = Rs. 1320.

2. It is assumed that the houses were constructed before April, 1961.

3. Net income from other sources than that from house occupied by him is arrived at as under Rs. 17000 - $\{(\frac{1}{8}$ of 17000 for repairs) + 150 + 600 + 800 + 30 + 20 + 1320. $\}$ = 17000 - 5753.33 = 11246.67.

Q. 52. Sri N. Datta owns house property of the annual rental value of Rs. 10000 which he has let to Sri S. Paul at 8500 p.a. Sri Paul agreed to bear the cost of repair himself. The expenses of Sri Datta in connection with this house property amounts to Rs. 3000 excluding the cost of repairs.

Ascertain the tax liability of Sri Datta. Would it make any difference if the house had been let out for Rs. 7000 p.a. instead of Rs. 8500 p.a.

[Prepared according to question of B. Com.

Agra University 1955]

Ans.

Fair Value of the house	Rs. 10000
Less. Repairing Charge borne by the tenant ($\frac{1}{8}$ of the value or the actual cost borne, whichever is less)	Rs. 1500
	<u>Rs. 8500</u>
Less Other expenses in connection with the property	Rs. 3000
Net income from the house =	Rs. 5500

It is assumed that the house has been constructed before 1.4.61. So no question of deduction of statutory allowance arises.

Had it been let out at Rs. 7000 p. a. instead of Rs. 8500 p.a. the income would be as follows :—

Annual value	=	Rs. 10000
Less Repairing charge	=	Rs. 1666'67
		<u>8333'33</u>
Less Other expenses.		3000'00
Net income =		<u>Rs. 5333'33</u>

Notes. Repairing charge would be $\frac{1}{8}$ of the rental value or the actual cost borne by the tenant, whichever is less. In this case, $\frac{1}{8}$ of the value = 1666'67 but the actual cost borne by the tenant would be 3000

Q. 53. Sri K. C. Ghose is employed in a business office at Rs. 600 p. m. He owns 30000 5% Govt. tax-free securities. He owns a big house the municipal valuation of which is Rs. 1200. He has let out one half of the house at Rs. 75 p. m. and the remaining half is occupied by him for

his own residence. The house has been given on mortgage to meet the cost of his daughter's marriage. The interest on mortgage amounted to Rs. 400 p. a. and the municipal tax paid in respect of the house amounted to Rs. 200.

Ascertain the tax-liability of Sri Ghose for the year ended 31 March. 1965.

[Prepared according to Question of B. Com (Agra) 1956.]

Income of Sri Ghose

1	Salaries @ Rs. 600 p. m.	Rs. 7200	
2.	Interests on Securities	„ 1500	
	Income from house property let out	<u>8700</u>	
1.	Annual Value @ Rs. 75 p. m.	900	
	Less 50% of Local tax	100	
		800	
	Less $\frac{1}{6}$ for repairs	<u>133.33</u>	
	Annual value after the above deductions	666.67	
	Income from house ($\frac{1}{2}$) occupied by him		
	Fair Value = $\frac{600 \times 900}{600} = 900$		
	Less Local Tax	<u>100</u>	
		800	
	Less $\frac{1}{2}$ for statutory deduction	<u>400</u>	
		400	
	Less $\frac{1}{6}$ for repairs	<u>66.67</u>	
		<u>333.33</u>	
		1000 00	
	Less interest on mortgage	400.00	
			600.00
	Total income of Sri Ghose	Rs. 9300.00	

Notes : It has been assumed that the house has been constructed after 1.4.50. 50% of the municipal tax has been allowed as deduction.

Q. 54. From the following information compute the total income and the amount on which average rate of relief is available for the Assessment year 1965-66.

Salary Rs. 18,000.

Employer's Contribution to Recognised Provident Fund
Rs. 2,000.

Interest on accumulated balance in the fund account
calculated @ 9%—Rs. 3,600.

Car allowance Rs. 1,200 (Actual expenses Rs. 1000)

Entertainment allowance Rs. 1,200,

The assessee was not in receipt of any entertainment allowance before 1. 4. 55. He also owns a dwelling house whose valuation is Rs. 10,000. He also paid Life Insurance premium. Rs. 4 000,
[C. U. M. Com. 1960]

Ans. Income for the Assessment year 1965-66

1. Salary	Rs. 18000 •
2. Employer's Contribution to Recognised Provident Fund (in excess of 10% of the salary)	„ 200
3. Interest on the accumulated balance in the fund account @ $2\frac{1}{3}\%$ (in excess of 6%)	„ 1200
4. Car allowance 1200 Less actual expenses <u>1000</u>	„ 200
5. Entertainment allowance	„ 1200
✓ Income from salary	Rs. 20800
6. Income from house property occupied by him Annual value	Rs. 10000
Less Statutory deduction (50%, or, Rs. 1800 whichever is less)	„ 1800
	Rs. 8200'00

As Rs. 8200 is greater than 10% of the total income, annual value is to be taken at 10% of the total income which is computed as under :—

$$\text{Annual value} = \frac{10}{100} \times \frac{12}{11} \times 20800 \quad \text{Rs. } 2269\cdot09$$

Less Repairing charge ($\frac{1}{6}$ of the above value) Rs. 378\cdot18

1890\cdot91

Add income from Salary 20800\cdot00

Total income from all sources Rs. 22690\cdot91

Rebate allowed :—

1. On the amount of contribution to
R. P. Fund (Employee's own) Rs. 2000

2. On the amount of life insurance premium
(Premium & P. F. contribution limited to
25% of the total income)

$$\text{Rs. } \left(\frac{22690\cdot91}{4} \right) - 2000 = \quad \text{Rs. } 3672\cdot72$$

5672\cdot72

Notes :

Entertainment allowance will be included in the total income of the Assessee because he is not in receipt of such allowance before 1-4-55.

Q. 55. Shri R. Ghose owns three houses at Alipore constructed before 1st April 1950, and lives in his own Bungalow at Rajpur. All the Alipore houses are let out. The annual value of these properties is Rs. 21,000 and that of the Bungalow is Rs. 7,000. The several expenses of the let out properties are as under :—

(a) Municipal Taxes including occupier's	share of tax	Rs. 5000
(b) Land Revenue paid	"	496
(c) Ground Rent paid	"	424

(d) Annual interest on mortgage of one of the properties Rs. 2,000

(Note :—Interest has not been paid for last 3 years)

(e) Fire Insurance Premium during the year, including Rs 800 in respect of previous year „ 1,600

(f) Collection charges „ 1.200

(g) Legal charges for recovery of arrear rent „ 300

(h) One of the tenants is in arrear of rent amounting to Rs. 600 in respect of the year in question and is unable to pay the same.

The expenses of bungalow are as under :—

(1) Municipal Taxes including occupier's share of tax	Rs. 1,500
(2) Insurance	„ 350
(3) Ground rent	„ 75

Shri Ghose's investment consists of 3% G. P. notes of the value of Rs. 1,00,000 on which interest has been collected on due dates. During the year ended 31st. March, 1961, he received Rs. 15,000 from Messrs. Development of Industries, Ltd., as Managing Director's remuneration.

You are requested to prepare a statement, showing the total income of Shri R. Ghose for the assessment year 1965-66. [C. U. M. Com. 1961]

Ans. Income from house property let out

Annual value	...	21000
Less Municipal Taxes		5000
		<hr/> 16000
Less ($\frac{1}{8}$ of the value) Repairs		2666'67
		<hr/> 13333'33

<i>Less</i>	Land Revenue	496	
	Ground Rent	424	
	Annual interest on mortgage	2000	
	Fire insurance premium	800	
	Collection Charges	1200	
	Legal Charges	300	
	Unrealised Rent	600	
	...	...	5820'00
	Net income from houses let out	...	<u>7513'33</u>
	Income from Interests on Securities		
	Interest on 3% G. P. notes (Rs. 1,00,000)		3000'00
	Income from other Sources		
	Managing Director's remuneration		<u>15,000'00</u>
			<u>25513'33</u>
	Income from house occupied for his own residence		
	Annual value	...	7000'00
	<i>Less</i> Municipal taxes	...	<u>1500'00</u>
			5500'00
	<i>Less</i> Statutory deduction		1800'00
	(Rs. 1800 or 50% of the above, whichever is less)		3700'00
As Rs. 3700 is greater than 10% of the total income the annual value of the house occupied, shall be taken at 10% of the total income which is calculated as under :—			
	Annual value = $\frac{10}{100} \times \frac{12}{11} \times (25513 - 350 - 75)$		
	or, " = $\frac{10}{100} \times \frac{12}{11} \times 25088 = 2736'87$		
<i>Less</i>	1. Repairing charges	456'14	
	($\frac{1}{6}$ of the above value)		
	2. Insurance	350	
	3. Ground rent	75	881'14
	Net income from house occupied ..		1855'73
	<i>Add</i> income from all other sources		25513'00
	Total income of R. Ghose	...	<u>27368'73</u>

Notes

1. Collection charges including legal charges do not exceed 6% of the Annual value.

2. Arrear interests on mortgage cannot be deducted from the income of the year in question.

3. Fire Insurance premium of the relevant previous year can only be allowed as deduction.

4. As the houses were constructed before 1.4.50, full municipal tax should be deducted from the annual value of the houses.

Q 56. Shri R. has the following income for the year ended 31st March 1965 :—

(a) Salary of Rs. 500 per month. He has contributed 10% of his salary to a recognised provident fund to which his employer also contributed an equal amount. Interest at 6% on his provident fund amounted to Rs. 600.

(b) He has 3 houses of municipal valuation of Rs. 6,000, Rs. 3,000, and Rs. 1800 respectively.

The following are the particulars :—

(i) 3rd house which was constructed in 1948, has been let out at Rs. 175 per month and he has incurred the following expenses in respect thereof :—(i) Interest on mortgage of property Rs. 1,200 ; Land revenue Rs. 40 ; premium for fire Insurance Rs. 150 ; interest on loan taken to repair the house Rs. 600 ; municipal tax Rs. 50. The house remained vacant for two months.

(ii) 2nd house which he constructed in 1954-55 and which was completed in march 1960, is let out on Rs. 200 per month. He paid Rs. 100 as municipal taxes and Rs. 200 as fire insurance premium of these house. He also paid Rs. 1000 as interest on loan which he raised to build his house.

(iii) The 1st house is used by him for his own residential purposes and he paid Rs. 300 as its repairs and Rs. 100 as fire insurance.

Ascertain the taxable income from property and compute total income of Shri R. for assessment year 1965-66 (corresponding to accounting year ending 31st March 1961).

[C. U. M. Com. 1962]

Income of Sri R for the assessment year 1955—66

1. Salary @ Rs. 500 p.m		Rs. 6000
Income from property let out	Rs.	
3rd House. Annual Rental value	2100	
Less Municipal tax	50	
	<u>2050</u>	
Less Repairs	342'00	
" Interest on Mortgage	1200'00	
" Land revenue	40'00	
" Fire Insurance premium	150'00	
" Interest on Loan	600'00	
" Vacancy allowance	<u>342'00</u>	2674'00
		— 624

The total amount of deductions on account of these expenses exceed the above value. But no loss on account of house property could be allowed in the Act. in respect of property of the nature referred to in Section 23(3) of the Acts. (In respect of a single residential house owned and occupied by the assessee). So the net income from the 3rd house cannot be taken to be nil.

2nd House. Annual Rental Value		Rs. 2400'00
Less Municipal tax		<u>50'00</u>
(50% of the tax)		2350'00
Less 1, Repairing Charge	391'66	
2. Fire Insurance premium	200'00	
3. Interest on Loan	<u>1000'00</u>	1591'66
Net income	...	<u>758'34</u>
1st House occupied by him	Rs.	
Fair Annual value	5625'00	
	$\frac{(2100 + 2400) \times 6000}{(1800 + 3000)}$	

HEADS OF INCOME—(INCOME FROM HOUSE PROPERTY) 121

Less Statutory deductions 1800·00
(Rs 1800 or 50% of the above value
whichever is less)

3825·00

As Rs. 3825 is greater than 10% of the total income, the annual value of the house occupied by him shall be taken at 10% of the total income and that is calculated as under :—

Annual Value = $\frac{10}{100} \times \frac{12}{11}$ of income from sources other than that from this property

$$\begin{aligned} \text{Annual value} &= \frac{10}{100} \times \frac{12}{11} \times (6758·34 - 100 - 624) \\ &= \frac{10}{100} \times \frac{12}{11} \times 6034·34 = 658·36 \end{aligned}$$

Less 1. Repairing Charge 109·73
($\frac{1}{8}$ of the above value)

2. Insurance Premium 100·00

209·73

448·47

Add incomes from all other sources 6134·34

Total income of R. Rs. 6582·81

Q. 57. X, an employee of a Ltd. Co.. had income from following sources during the year ended 31st March 1962 :

(a) Salary Rs, 1500 per month. (b) Entertainment allowances Rs. 450 per month, prior 1st April 1955, he was drawing Rs. 250 per month. (c) Interest for the year at 4½% on Treasury Saving Deposit Certificates of the f. v. of Rs. 25000. (d) He had two houses—one constructed in 1948, was let out for Rs. 800 per month and $\frac{1}{2}$ of the other house in which he lived was let out at Rs. 500 per month. The annual Municipal Taxes of the 1st house was Rs. 1600 and of the 2nd house Rs. 1400. He maintained a life policy for Rs. 20,000 on which he paid annual premium of Rs. 1200.

You are required to ascertain, (i) the assessable income, (ii) the non-taxable Income, and (iii) the amount on which rebates of tax, if any, are admissible during the assessment year 1965-66. [C. U. M. Com]

Ans. *Income of Sri X from Salary* Rs.

1. Salary @ Rs. 1500 p. m.	18000'00
2. Entertainment allowance (450-250) p.m.	2400'00
	<u>20400'00</u>

Income from House Property

1st. House :— Annual value	9600
Less Municipal Taxes (full)	<u>1600</u>
	8000
Less Repairing Charge ($\frac{1}{8}$ of the above)	<u>1333'33</u>
	6666'67

2nd House :— Half of the annual rental value	6000'00
Less Municipal Taxes (50% of the half of the tax)	350'00
	<u>5650'00</u>
Less Repairing Charge ($\frac{1}{8}$ of the above value)	<u>941'67</u>
	4708'33
	<u>31775'00</u>

Half of the annual value occupied by himself.	6000'00
Less Municipal Taxes (50% of the half of the tax assuming that the house was completed after 1.4.50)	350'00
	<u>5650'00</u>
Less Statutory deduction (Rs. 1800 or 50% of the above value whichever is less)	<u>1800'00</u>
	3850'00

As Rs. 3850 is greater than 10% of the total income of Sri X, the annual value of the house shall be taken at 10% of the total income and is calculated as under :—

$$\text{Annual value} = \frac{10}{100} \times \frac{12}{11} \times \text{Income from other sources}$$

$$= \frac{10}{100} \times \frac{12}{11} \times 31775 = 3466.30$$

Less $\frac{1}{8}$ of the above for repairs	577.70
	2888.60

Therefore, Total income from all sources = (31775.00 + 2888.60) = Rs. 34663.60

Rabate allowed on life insurance premium paid Rs 1200.

Interest on Treasury Savings Deposit Certificate is excluded from total income of Sri X.

Q. 58. Sri C. Kar, the secretary of M/S Y Pvt., LTD., shows the following particulars of his income earned in the financial year 1964-65 :—

(1) Salary including employee's contribution of Rs. 1800 to a recognised provident fund	18000
(2) Employer's contribution to provident fund	1800
(3) Interest on accumulated balance in the Provident Fund Account (calculated at 9%)	3600
(4) Car Allowance	1200
(5) Club bills of the assessee paid by employers	2000
(6) Entertainment allowance	400
(7) Income from dividend	
(Gross, Rs. 7,000)	Rs. 4,900 net.

Note :—(a) The assessee was not in receipt of the entertainment allowance before 1st April, 1955.

(b) The assessee also owns a house whose municipal value is Rs. 900. He let out $\frac{1}{3}$ of the house at Rs. 40 per month and occupies the remaining portion for his own

residence. He paid Municipal Taxes amounting to Rs. 300—in respect of the house.

(c) He also owns $3\frac{1}{2}\%$ Govt. Securities of the face-value of Rs. 6000 (Interest received).

(d) He paid Rs. 3000 on account of Life Insurance premium on the life of his wife.

Find out taxable income of Shri C. Kar. [C.U. M. Com.]

Ans. *Income of Sri C. Kar.*

1. Salary	18000·00
2. Interest on the balance of R.P.F. a/c. @ 3% (in excess of 6%)	1200·00
3. Club bills paid by employer	2000·00
4. Car allowance	1200·00
5. Entertainment allowance	400·00
	<hr/>
Salary income—	22800·00
Interests on securities @ $3\frac{1}{2}\%$ on Rs. 60000	2100·00
Income form Dividend	7000·00
<u>Incomes from house property occupied by himself</u>	
Annual Rental Value of $\frac{1}{3}$ of the house	480·00
Less Proportional Municipal Tax	<hr/> 100·00
	380·00
Less $\frac{1}{8}$ th. for repairs	<hr/> 63·33
	316·67
Annual value of the portion occupied by him.	600·00
Less Municipal Tax	<hr/> 200·00
	400·00
Less 50% as statutory deduction	Rs. 200·00
	Rs. 200·00

Total income 22800·00 + 2100·00 + 316·67
+ 200·00 + 7000·00 = Rs. 32416·67

He is entitled to a rebate on Rs. 3000 as premium paid on the life policy of his wife.

Q. 59. Below are given the particulars of Ram Tarak Sarma, a resident and ordinarily resident assessee, for the year ended 31st March 1965.

(i) Salary Income—Rs. 3,000 per month :

(ii) Entertainment allowance—Rs. 350 per month, the allowance was given for the 1st time in the year ended 31st March 1958).

(iii) Interest on $4\frac{1}{2}\%$ T.S.D. Certificate of the F. V. of Rs. 20000. He also held $4\frac{1}{2}\%$ W. B. Govt. loan of the F. V. of Rs. 40000.

(iv) He is the owner of the 2 houses—the first one constructed in 1946 was let out at Rs. 900 per month. The municipal taxes of Rs. 1,600, payable on the house, were entirely borne by him. The other house fetched Rs. 350 per month for the ground floor, the other two floors are being occupied by him.

The assessee maintained a policy on his wife's life—the value of the policy was Rs. 20,000 and annual premium was Rs. 2500

You are required to ascertain the (i) Assessable income, (ii) Exempted income, and (iii) Rebates admissible, if any, during the assessment year 1965-66. [C U. M. Com. 1964]

Ans. *Income of Sri Ram Tarak Sarma*

1. Salary	36000
2. Entertainment allowance (as he has not been getting such before) 1. 4. 55.	4200
	<hr/>
Salary income	40200
Interest on securities	<hr/> 1800
Income from house property let out	
(1st House) Annual rental value	10800
Less full Municipal Tax	<hr/> 1600
	9200
Less $\frac{1}{6}$ of the above value for repairs	<hr/> 1533'33
	<hr/> 7666'67

(2nd House) Annual rental value		
($\frac{1}{3}$ only)	4200'00	
Less $\frac{1}{6}$ of the above for repair	<u>700'00</u>	3500'00
		<u>11166'67</u>
Annual value of the house		
occupied by him ($\frac{2}{3}$)	8400	
Less Statutory deduction	<u>1800</u>	
		<u>6600</u>

As Rs. 6600 is greater than 10% of the total income, the annual value is to be taken at 10% of the total income which is calculated as under :—

$$\begin{aligned}\text{Annual Value} &= \frac{10}{100} \times \frac{12}{11} \text{ of } (40200 + 1800 + 11167) \\ &= \frac{10}{100} \times \frac{12}{11} \times 53167 = 5800'04\end{aligned}$$

$$\begin{aligned}\text{Less } \frac{1}{6} \text{ for repair} &966'67 \\ \hline &4833'37\end{aligned}$$

- (i) Total income of Sri C. Kar = $53167 + 4833'37$
= Rs. 53000'37
- (ii) Totally Exempted Income :— Rs.
Interest on T.S.D. Certificate = 900
- (iii) Rebate admissible on life insurance —
premium 2000
(because rebate on premium is
limited to 10% of the sum assured.)

CHAPTER V
(HEADS OF INCOME—
PROFITS AND GAINS OF BUSINESS OR PROFESSION)

The following incomes shall be chargeable to Income-Tax under the head 'Profits and Gains of Business or Profession'.

- (i) The profits and gains of any business or profession which was carried on by the assessee at any time during the previous year.
- (ii) Any compensation or other payment due to or received by—
 - (a) any person, by whatever name called, managing the whole or substantially the whole of the affairs of an Indian Company or of any other Company in India, at or in connection with the termination of his management or modification of the terms and conditions relating thereto ;
 - (b) any person, by whatever name called, holding an agency in India for any part of the activities relating to the business of any other person, at or in connection with the termination of the agency or modification of the terms and conditions relating thereto.
- (iii) Income derived by a trade, professional or similar association from specific service performed for its members.
- (iv) The value of any benefit or, perquisite arising from or accruing to the business or by the exercise of a profession shall be included as income from "business or profession".

N. B. The profits and gains of any business or profession must include all revenue receipts, casual and regular, recurring or non-recurring. It would also include voluntary payments made by persons who are under no obligation to make such payment provided such payments are received in the course of business or in the exercise of a profession.

Explanation I : The profits and gains of a business shall also include the profits and gains of **Managing Agents**.

Explanation II : Where **speculative transactions** carried on by the assessee are of such a nature as to constitute a business, the business shall be deemed to be definite and separate from any other business.

As per Section 29 of the Act, the income chargeable under the head 'Profits and Gains of Business or Profession' shall be computed in accordance with the provisions contained in Section 30 to 43.

The following are the admissible allowances as per Sections 30 to 43.

Section 30 : Rent, rates, taxes, repairs and insurance for building.

Section 31 : Repairs and insurance of machinery, building and furniture.

Section 32 : Depreciation.

Section 33 : Development Rebate.

Section 34 : Conditions for depreciation allowance and Development rebate.

Section 35 : Expenses on scientific research.

Section 36 : Other deductions, viz.

- (i) Insurance of stocks and stores.
- (ii) Bonus or commission to employees,
- (iii) Interest on capital borrowed.
- (iv) Annual contribution towards a recognised Provident Fund or an Approved Super-Annuation Fund,
- (v) Contribution towards an Approved Gratuity Fund.
- (vi) Loss of the animals used.

- (vii) Bad debts,
- (viii) Amount carried to a Special Reserve created by a Financial Corporation.

Section 37 : General Deduction,

Section 38 : Building etc , partly used for business and not exclusively so used,

Section 39 : Managing Agency Commission,

Section 40 : Section 40 provides that expenses shall not be deducted in computing income from business or profession under express provision of the Act.

Section 41 : Income deemed to be profits,

Section 42 : Special provision for deduction in the case of Oil Mining concern etc,

Section 43 : Definition of certain terms and expressions used in computing income from business or profession.

The amount chargeable to the profits and gains from business or profession are as follows :—

Rent of Premises :

Where the premises are occupied by the assessee as a tenant, the rent paid for such premises ;

Repairs to Premises :

Where the premises are occupied by the assessee and if he has undertaken to bear the cost of repairs to the premises, the amount paid on account of such repairs.

Where the premises are occupied by the assessee otherwise as a tenant, the amount paid by him on account of current repairs to the premises.

Rates and Taxes :

Any sum paid on account of land revenue, local rates or municipal taxes by the assessee.

Premium on Insurance :

Any sum of premium paid in respect of insurance against risk of damage or destruction of the premises paid by the assessee.

Repairs and Insurance of Machinery, Building etc. :—

The amount paid on account of current repairs and insurance of machinery, building or furniture used for the purpose of business or profession. The amount of any premium paid in this respect against risk of damage or destruction thereof.

Depreciation :

Depreciation of building, machinery, plant or furniture owned by the assessee and used for the purpose of business or profession subject to the provision of Section 34.

Development Rebate :

Certain amount of deduction is allowed for development rebate, details of which have been discussed in subsequent chapter.

Expenses on Scientific Research :

In respect of expenses on scientific research, the following deduction shall be allowed.

(i) Any expenditure (not being in the nature of Capital Expenditure) laid out or expended on scientific research related to the business :

(ii) Any sum paid to a scientific research association which has as its object the undertaking of the scientific research or to a university, college or other institution to be used for scientific research, provided that such association, university, college or institution is for the time being approved for the purpose of this clause by the prescribed authority.

(iii) Any sum paid to a university, college or other institutions to be used for research in social science or statistical research related to the class of business carried on by the assessee.

(iv) 1/5th of the Capital Expenditure incurred on scientific research related to the business carried on by the assessee in any previous year shall be deducted for that previous year and the balance of the expenditure shall

be deducted in equal instalment for each of the four succeeding previous year.

Explanation : Where any capital expenditure has been incurred before the commencement of the business, the aggregate of the expenditure so incurred within the three years immediately preceding the commencement of the business shall be deemed to have been incurred in the previous year in which the business is commenced.

In certain cases an asset representing capital expenditure on scientific research ceases to be used for scientific research in any previous year. The asset in such cases is sold or is put to other use in the business. Further admissible deduction will be equal to the deficiency, if any, on account of asset which is calculated as follows :—

Total capital expenditure—(Sale proceeds or realisable value + deduction so far allowed in respect of the asset) = Deficiency.

No deduction will be allowed under the above clause for that previous year or for any subsequent year.

In certain cases the asset is sold in a previous year subsequent to the year of cessation, further deduction is to be allowed, if any deficiency is caused by such sale which is calculated as follows :—

('Realisable value of the asset as taken into account in the year of cessation.) — ('Actual sale proceeds')

= Deficiency (for which deduction is to be allowed in the year of sale)

When such an asset is put to other uses in the business, normal depreciation is to be allowed in respect of such asset.

If the annual deduction on account of such capital expenditure can not be fully charged against the profits of

the year on account of insufficiency or absence of such profit, such unabsorbed portion of annual deduction can be carried forward indefinitely.

When a surplus is created as a result of sale of such asset representing capital expenditure, such surplus is to be treated as income of the year in which the sale takes place whether the business is in existence or not. Such surplus is calculated as follows :—

$$\left\{ \begin{array}{l} \text{(Total deductions so far)} \\ \text{allowed in respect of} \\ \text{such an asset.} \end{array} \right\} + \text{(Sale proceeds of the Asset)} - \left\{ \begin{array}{l} \text{Total capital expenditure} \\ \text{which is assessable.} \end{array} \right\} = \text{Surplus}$$

Other Deductions :

(i) The amount of any **premium** paid in respect of insurance against **risk** of damages or destructions of **stocks** or **stores** used for the purpose of business or profession.

(ii) Any sum paid to an employee as **bonus** or **commission** for the services rendered, whether such sum would not have been payable to him as profits or dividend if it had not been paid as bonus or commission provided that the amount of **bonus** or **commission** is **reasonable** with reference to—

- (a) the pay of the employee and the conditions of his service ;
- (b) the profits of the business or profession for the previous year in question ; and
- (c) the general practice in a similar business or profession.

(iii) The amount of the **interest** paid in respect of **capital** borrowed for the purpose of the business or profession.

Explanation : Recurring subscription paid periodically by the share-holders or subscribers in Mutual Benefit Associations shall be deemed to be capital borrowed within the meaning of this clause. Such share-holders or subscribers must fulfil the conditions as may be prescribed.

(iv) Any sum paid by the assessee by way of annual contribution as an employer towards a **Recognised Provident Fund** or an **Approved Super-annuation Fund** subject to such limits as may be prescribed for the purpose.

(v) Any sum paid by the assessee as an employer by way of contribution towards an **Approved Gratuity Fund** created by him for the exclusive benefit of his employees under an irrevocable trust.

(vi) In respect of animals which have been used for the purpose of the business or profession otherwise as stock-in-trade and have died or become permanently useless for such purpose, the difference between actual cost to the assessee of the animals and the amount, if any, realised in respect of carcasses of animals.

Loss of animals : Original price *minus* the price realised after sale of carcasses of animals.

(vii) In respect of any **special reserve** created by an **Approved Financial Corporation** which is engaged in providing long term finance for industrial development in India, an amount not exceeding 10% of the total income carried to such reserve A/c. No allowance shall be made on the excess when the aggregate of such reserve exceeds the paid up share capital.

Bad Debt

An amount of any debt or part thereof which is established to have become a bad debt in the previous

year, the assessee must fulfil the following conditions before a bad debt can be allowed.

(a) The bad debt has been taken into account in computing the income of the assessee of that previous year or of an earlier previous year.

(b) The debt has been irrecoverable in the accounts of the assessee for that previous year. The debt must be in respect of or incidental to the business or profession of the assessee.

Other provision regarding bad debt

(a) If the amount ultimately recovered on any debt is less than the difference between the debt and the amount so deducted, the deficiency shall be deductible in the previous year in which the ultimate recovery is made.

(b) Any such debt or part of debt may be deducted if it has already been written off as irrecoverable in the accounts of an earlier previous year, but the I. T. O. had not allowed it to be deducted on the ground that it had not been established to have become a bad debt in that year.

(c) Where any such debt or part of debt is written off as irrecoverable in the accounts of the previous year and the I.T.O. is satisfied that such debt or its part became a bad debt in any earlier previous year not falling beyond the period of 4 previous years immediately preceding the previous year in which such debt or its part is written off, the provision of Section 155 (6) shall apply.

It simply means that—

(a) Further bad debt to be allowed (in the recovery year) is equal to the debt *minus* bad debt deducted *plus* the amount of debt recovered.)

Total debt—(bad debt deducted + ultimately debt recovered).

Taking debt as Rs. 500, bad debt deducted as Rs. 50 and debt ultimately recovered as Rs. 430, we get. Rs. 500 – Rs. (50 + 430) = Rs. 20.

So Rs. 20 can be allowed as further deduction.

(b) Further debt to be allowed = Debt written off as irrecoverable in any previous year, but disallowed by the I.T.O. on the ground of not being an established bad debt.

(c) Provision of Section 155 (6) shall apply in case of bad debt of any earlier previous year (falling within the preceding 4 previous years) but written off as irrecoverable in the accounts of the previous year.

Section 37 : General

Any expenditure (not being an expenditure in the nature as described in Sections 30 to 36 and not being in the nature of capital expenditure or personal expenses of the assessee) laid out or expended wholly or exclusively for the purpose of the business or profession shall be allowed in computing the income chargeable under the head 'profits and Gains of Business or Profession'.

1. Legal expense :

(a) Legal expense incurred in the normal course of carrying on the business,

(b) Legal expense incurred to avoid the business liability,

(c) Legal expense to define the assessee's title to his assets,

(d) Legal expense to secure the termination of an adverse trade relationship, but legal expenses incurred for appeals to Income-tax Authority are disallowed and cost and penalties incurred in proceedings instituted against for breach of any provision of law are disallowed.

2. **Damages paid by an assessee in the capacity as a trader.** (Compensation payable for negligently Carrying on business is also allowable).

3. **Remuneration paid to employees** if such payment relates solely or exclusively to the business carried on by the assessee.

4. **Contribution to an Unrecognised Provident Fund** provided the fund is constituted as irrevocable trust and no part of the employee's contribution can be recovered by him.

5. **Any premium paid for—**

(a) Insurance against loss of profits resulting upon damage by fire ;

(b) On the insurance on the life of the employee who personally influences the business and his death causes a loss of profit of the business.

(c) Insurance against accident to the employees and the loss for the risk of liability under Workmen's Compensation Act.

6. **Cost of production, transport and sale of goods and cost for taking any financial advice.**

7. **Compensation :**

Compensation payable to the agent for loss of agency. Compensation paid for cancellation of a trading contract.

8. **Professional or commercial subscription paid by the assessee.**

9. **Expenses incurred on the date of opening New Account (*Halkhata*)** subject to a maximum of Rs. 200/-

10. **Brokerage for selling goods and procuring goods.**

11. **Annual charge for.**

12. **Amount spent for advertising if the expenditure are incurred in selling goods in the normal course of business.**

13. **Entertainment expense at the following rates ;**

In case of Company :

- | | |
|---|---|
| 1. On first Rs. 10,00,000 of the profits and gains of business (computed before making any allowance under section 33 or in respect of entertainment expense) | At the rate of 1% or Rs. 5000/ whichever is higher. |
| 2. On the next Rs. 40,00,000/- of the profits and gains of the business (computed in the manner aforesaid). | At the rate of $\frac{1}{2}\%$. |
| 3. On the next Rs. 1,20,00,000/- of the profits and gains of the business (computed in the manner aforesaid). | At the rate of $\frac{1}{4}\%$. |
| 4. On the balance of the profits and gains of the business (computed in the manner as aforesaid) | Nil. |

In case of Building, Machinery, Plant, Furniture etc. partly used for business or not exclusively so used—

Where a part of any premises is used as dwelling house by the assessee, rent, rates, taxes, repairs and insurance for building shall be such amount as the I.T.O. may determine. In determining such amount regard must be had to proportionate annual value of the part used for the purpose of business or profession.

Where any building, machinery, plant or furniture is not exclusively used for the purpose of business or profession, deductions in respect of repairs, insurance or machinery, plant and furniture shall be restricted to the proportionate part thereof as the I.T.O. may determine. In this case also, regard must be had to the uses of such building,

machinery, plant or furniture for the purpose of business or profession.

Managing Agency Commission :

When the Managing Agency Commission is to be shared by the Managing Agent and a third party or parties such Agent and each such party shall be chargeable only on the share to which the Agent or the party is entitled, provided :

- (a) There is an agreement between them to that effect;
- (b) A declaration has been filed showing the proportion in which such commission is shared between them.
- (c) I. T. O. is satisfied on principle of the facts contained in such declaration.

Inadmissible Expenses :

As per Section 40 of the Act, the following amounts shall not be deducted in computing the income chargeable under the head "Profits and Gains of Business or Profession."

✓ In case of any assessee :—

(1) Any interest chargeable under this Act which is payable outside India on which tax has been paid or deducted and in respect of which there is no person in India who may be treated as an agent. Interest on loan issued for public subscription before the first day of April 1938 will of course be allowed.

(ii) Any sum paid on account of any rate or tax.

(a) levied on the profits or gains of any business or profession ;

(b) assessed at a proportion of any such profits or gains.

(c) assessed on the basis of any such profits or gains.

(iii) Any payment chargeable under the head 'Salary' if it is payable outside India and tax has not been paid thereon or deducted therefrom.

(iv) Any payment to a Provident or other Fund established for the benefit of the employees of the assessee unless the assessee has made effective arrangement for deduction of taxes at sources from any payment made from the fund chargeable to tax under the head 'Salary'

✓ In case of firm :

✓ Any payment of interest, salary, bonus, commission or remuneration made by the firm to any partner of the firm.

✓ In case of a Company :

(i) Any expenditure which results directly or indirectly in the provision of any remuneration or benefit or amenity to

(a) a Director

(b) a person who has substantial interest in the Company,

(c) a relative of the Director or of such person. ✓

(ii) Any expenditure in respect of any asset of the company used by

✓ (a) a Director, (b) a person having substantial interest in the Company,

✓ (c) a relative of the Director or of such person either wholly or partly for his own purpose or benefit.

(iii) Any allowance in respect of any asset of the Company used by such person either wholly or partly for his own purpose or benefit.

Example : When a car is provided by the Company to a Director, any expense on account of such car will not be allowed as deduction, and any car allowance to a Director will not also be allowed provided in the two

cases, the car is wholly or partly used for his own purpose. When in the opinion of the I.T.O. any such of the above expenditure or allowance on account of asset becomes excessive or unreasonable in comparison with the legitimate business-needs of the Company and the benefit derived by or accruing to the Company therefrom, such expenditure or allowance will not be allowed.

(iv) Any expenditure by way of provision directly or indirectly of any remuneration or benefit or amenity to an employee who is a citizen of India to the extent such expenditure exceeds Rs. 5000/-per month for any period of his employment after 28.2.63.

In computing the aforesaid expenditure, payment by way of gratuity or any sum comprises in the transferred balance of an employee participating in a Recognised Provident Fund or the amount of compensation as per sub-Section 3 of Section 17, shall not be taken into account.

(v) Any expenditure after 29.2.64 which results directly or indirectly in the provision of any remuneration, benefit or amenity to an employee in excess of 20% of his salary. In computing such salary, dearness allowance may be included if the terms of employment so provides, but will not include any other allowances or perquisites. Such expenditure shall not, of course, include payment made by the company to a Recognised Provident Fund or Approved Surperannuation Fund or Approved Gratuity Fund.

✓ In case of **Banking Company** :—

The amount which has been allowed as deduction in computing its income chargeable to income tax under the head ; "Interest on Security" in addition to the above expenses which are expressly disallowed as per Section 40, the following expenditure are not also allowed as deduction in computing the income from business or profession.

- ~~(a)~~ Drawings by partner or by proprietor ;
- ~~(b)~~ Private or personal expenses of the proprietor or partner ;
- ~~(c)~~ Capital expenditure (depreciation allowance is however allowable in respect of such capital expenditure.)
- ~~(d)~~ Reserve for bad debt ;
- ~~(e)~~ Reserve for taxation ;
- ~~(f)~~ Any other reserve except special reserve by an approved financial institution ;
- ~~(g)~~ Expenditure in the nature of Charity or gift ;
- ~~(h)~~ Income-tax, super-tax and other tax on income, sale tax is allowable ;
- ~~(i)~~ Past losses charged to Profit & Loss A/c.
- ~~(j)~~ Excessive depreciation to the extent of such excess ;
- ~~(k)~~ Any other expenditure incurred wholly or exclusively for the purpose of the business or profession ;
- ~~(l)~~ annual rental value of the premises owned or occupied for business.

SPECIAL POINTS REGARDING PROFITS FROM BUSINESS OR PROFESSION ;

1. The Business or Profession from which profits arise must be carried on by the assessee himself or by any other person under his authority. He must have the right to carry on the business or profession directly, the profits of which are to be taxed.
2. In case of speculative business, losses of any speculative business can only be set off against similar speculative profit.
3. When an assessee has several businesses, tax is to be levied on the aggregate of the profits of all businesses and professions. Therefore, the loss in one business may be set off against the profit in other business.

4. The business or profession may either be carried on **throughout** the previous year **or for any portion** of the year, in both cases, profits of business are to be charged. The profits would be taxable though such profits are collected in a year after the closure of the business or profession because **profits have accrued** during the time, the business or profession was being carried on, and not after its closure.

5. **After winding up** of the business or profession, the profits that may arise by realising the assets **are not taxable** because no business is being carried on in that case. But if the winding up procedure of a business involves the carrying of a trade then the profit arising in course of such trade shall be taxable. But if the concern has stock-in-trade at the time of its winding up, any profit that may arise from the sale of the stock-in-trade will be taxable.

6 But when the entire business is sold including stock-in-trade for a **single unapportioned consideration**, tax cannot be levied from the profit made from such a sale because profit on sale of stock-in-trade cannot be apportioned in that case.

7. It is **not only** the legal ownership but also the **beneficial ownership** of the business which is to be counted in levying tax on the profits of business.

8. **Tax cannot** be levied on the beneficial profit or the **prospective profit** of the business. Again the tax authority is not concerned with the losses which may accrue **in future**.

9. In case, an **isolated deal** becomes an adventure in the nature of trade, the **expenditure** incurred in connection with that transaction **during the years prior to the year of account** can be allowed as deduction from the profit of of that deal.

10. When any allowance or deduction has been granted in respect of any loss or expenditure or trading liability in any past assessment and the assessee subsequently has obtained some benefit either in cash or in any other manner in respect of that losses, the value or benefit accruing to him shall be considered as the profit in the year of receipt or accrual.

11. When any building, plant and machinery or furniture is sold or discarded or destroyed and the money receivable in respect of those assets plus the amount of scrap value exceeds the written down value of the asset so much of the excess as it does not exceed depreciation allowed, is chargeable as income of the business of the year in which the money becomes due, such an amount is termed as Balancing Charge.

12. When any bad debt is recovered and if the sum is greater than that allowed by the Tax Authority, such excess portion of the debt realised shall be treated as income of the year in which it is recovered.

13. When any asset which has been acquired as a result of expenditure of capital nature on scientific research is sold subsequently without being used and the sale proceeds together with the total deduction in respect thereof under section 35, exceeds the amount of capital expenditure, such excess or the total deduction so made (whichever is less) is to be treated as income of the business in the year in which the asset is sold.

পেশা বা ব্যবসাগত আয় ও মুনাফা (Profits and gains of Business or Profession) :—

পেশা বা ব্যবসাগত আয়ের তালিকাভুক্ত :—

১। করদাতা পেশা হইতে অথবা ব্যবসা পরিচালনা করিয়া পূর্ববর্তী বৎসরে যে পরিমাণ আয় করিয়াছে তাহা।

২। কোন ভারতীয় কোম্পানী বা ভারতস্থিত কোম্পানীর পরিচালনা হইতে অবসর গ্রহণ কালে বা অবসর গ্রহণের শর্তাবলীর পরিবর্তনের ফলে অথবা অন্য কোন ব্যবসায়ের প্রতিনিধিত্বের অবসানের ফলে করদাতা ক্ষতিপূরণ হিসাবে যাহা পাইয়া থাকে তাহা।

৩। কোন ব্যবসায় বা পেশা সমিতি বিশেষ বিশেষ সেবা কাজের জন্য সমিতির সভ্যদের নিকট হইতে যাহা আয় করিয়া থাকে তাহা।

৪। পেশা বা ব্যবসায় পরিচালনা কালে যতকিছু উপরি পাওনা বা অন্ত্যন্ত সুবিধা পাওয়া যায় তাহার মূল্যও ব্যবসায়ের আয়ের, অন্তর্ভুক্ত হইবে।

৫। ব্যবসায় পরিচালনার দরুন নিয়মিত বা অনিয়মিত, ধারাবাহিক বা আকস্মিক—সকল প্রকার আয়ই এই ব্যবসায়-আয়ের অন্তর্ভুক্ত। ব্যবসা পরিচালনা কালে কোন ব্যক্তির স্বেচ্ছাদান হইতে ব্যবসায়ের আয়কেও এইরূপ তালিকার অন্তর্ভুক্ত করা হয়।

৬। ম্যানেজিং এজেন্সী প্রতিষ্ঠানের আয়কেও এই আয়ের তালিকাভুক্ত করা হয়।

আয় কর আইন মতে ব্যবসায় আয় হইতে যে সকল ব্যয় বাদ দেওয়া চলে তাহা নিম্নে প্রদত্ত হইল :—

১। বাড়ীভাড়া, বাড়ী বা জমির খাজনা, মেরামত খরচ ও বীমা খরচ।

২। যন্ত্রপাতি ও আসবাবপত্রের মেরামত খরচ ও বীমা খরচ।

৩। বাড়ী, যন্ত্রপাতি ও আসবাব পত্রের স্বাভাবিক ও অস্থিমূল্যহ্রাস এবং বাড়ীর প্রারম্ভিক মূল্যহ্রাস।

৪। নূতন যন্ত্রপাতি স্থাপন দরুন উন্নয়ন মূলক ব্যয় (Development Rebate)

৫। গবেষণার চলতি খরচ এবং এক পঞ্চমাংশ মূলধনী ব্যয়।

৬। বিবিধ খরচ যথা :—মাল পত্রের বীমা খরচ, কর্তৃকারীদের জন্য কমিশন ও বোনাস, ঋন করা মূলধনের উপর সুদ, অনুমোদিত প্রভিডেন্ট ফাণ্ড, গ্রাচুয়িটি ফাণ্ড বা সুপার এনিউএশান ফাণ্ডে প্রদেয় অংশ। ব্যবসায়ে ব্যবহৃত পশুপক্ষীর মৃত্যু জনিত ক্ষতি, আদায়ের অযোগ্য পাওনা এবং আর্থিক করপোরেশনের বিশেষ তহবিলে জমা ইত্যাদি।

৭। ব্যবসায়ে আংশিকভাবে ব্যবহৃত বাড়ীর খরচের আনুপাতিক অংশ।

৮। ম্যানেজিং এজেন্টকে প্রদেয় কমিশন।

এ সকল ছাড়াও আরও কতকগুলি সাধারণ ধরনের খরচ আছে যাহা সাধারণত ব্যবসায় আয় হইতে বাদ দেওয়া চলে যেমন :—

(ক) সাধারণ ভাবে ব্যবসায় চালাইবার কালে আদালতের খরচ।

(খ) সম্পত্তির উপর অধিকার নির্ণয়ে আদালতের খরচ।

(গ) ব্যবসায়ী হিসাবে সাধারণ ক্ষতিপূরণ।

(ঘ) কর্মচারীর পারিশ্রমিক।

(ঙ) অননুমোদিত প্রভিডেণ্ড ফাণ্ডে প্রদেয় অংশ (যদি উহা irrevocable trust এর দ্বারা গঠিত হয়)।

(চ) কর্মচারীর দুর্ঘটনাজনিত বীমার প্রিমিয়াম।

(ছ) পরিবহন খরচ, আর্থিক বিষয়ে অভিজ্ঞ পরামর্শ গ্রহণের খরচ।

(জ) চুক্তি বাতিল বা প্রতিনিধিত্ব অবসানে ক্ষতিপূরণ।

(ঞ) হালখাতার খরচ (সর্বোচ্চ ২০০), পেশাগত সমিতি বা ব্যবসায়ী সমাজের চাঁদা, পণ্য বিক্রয়ের দালালী, বিজ্ঞাপনের খরচ এবং নির্দিষ্ট হারে আপ্যায়নের খরচ ইত্যাদি।

কিন্তু ভারতের বাইরে প্রদেয় কোন সুদ ও বেতন এই ব্যয়ের তালিকাভুক্ত হইতে পারে না। অবশ্য ১৯৩৮ সালের পূর্বের সাধারণ স্বণ পত্রের ক্ষেত্রে এই নিয়ম প্রযোজ্য নয়।

ইহা ছাড়া ব্যবসায়ী আয়ের উপর প্রদেয় আয় কর ও এই ব্যয়ের তালিকায় আসিবে না।

আবার যৌথ কোম্পানীর ক্ষেত্রে—যদি কোন পরিচালক অথবা কোম্পানীতে যথেষ্ট স্বাধীন সম্পন্ন ব্যক্তিকে এমন কোন সুযোগ সুবিধা বা ভাতা দেওয়া হয় যাহা আয়কর অফিসারের মতে এই পরিমান সুযোগ সুবিধা বা ভাতা কোম্পানীর স্বার্থের অনুপাতে ঠিক যুক্তিযুক্ত নয় তাহাও এই জাতীয় ব্যয়ের তালিকাভুক্ত হয় না।

ব্যবসায়ী আয় সম্পর্কে আরও কয়েকটি জ্ঞাতব্য বিষয় :—

১। যে ব্যবসায়ের আয়ের উপর কর ধার্য হয় সেই ব্যবসায়টি করদাতা নিজেই বা তাহারই কতৃদ্বাধীনে অথবা কোন ব্যক্তিকে পরিচালনা করিতে হইবে।

২। ফটকা ব্যবসায়ের কোন ক্ষতি একমাত্র এই জাতীয়^{*} ব্যবসায়ের লাভ হইতে বাদ দেওয়া চলিবে।

৩। করদাতার অনেক ব্যবসায় থাকিলে সকল ব্যবসায়ের সর্বমোট ফলই বিবেচ্য। অতএব এক ব্যবসায়ের ক্ষতি আর এক ব্যবসায়ের লাভের সাহায্যে পূরণ করা চলিবে।

পূর্ববর্তী বৎসরের সমগ্র বা আংশিক যে কোন সময়ের জুগুই ব্যবসায়টি চালু থাকিলেই উহার আয়ের উপর কর ধার্য হইবে। ব্যবসায়ের বকেয়া মুনাফা ব্যবসা বন্ধের পরে আদায় হইলেও উহা আয়কর হইতে অব্যাহতি পায় না।

৫। ব্যবসা গুটাইবার পরে সম্পত্তি বিক্রয় করিয়া কিছু লাভ করিলে উহার উপর কর ধার্য হয় না। কারণ তখন কোন ব্যবসায়ের অস্তিত্ব ছিল না, ব্যবসায়টি গুটাইবার পদ্ধতিতে যদি উহাকে চালু রাখিতে হয় এবং এই অবস্থায় যদি কিছু মুনাফা সৃষ্ট হয় তাহা হইলে এই মুনাফার উপরও আয় কর ধার্য হইবে।

৬। ব্যবসায়ের ভবিষ্যৎ লাভ বা ক্ষতি কর ধার্যের ব্যাপারে কোন প্রভাব বিস্তার করিতে পারে না।

৭। কোন ব্যবসায়ী দায়, ক্ষতি বা ব্যয় যদি পূর্বে মোট আয় নির্ধারণে স্বীকৃতি পাইয়া থাকে এবং পরবর্তী কালে যদি ঐ সকল ক্ষতি বা ব্যয় নাবদ্ধ বাদ (deduction) হইতে ব্যবসায়ীর কোন সুবিধা হয় তাহা হইলে ঐ সুবিধার আর্থিক মূল্য ব্যবসায়ের আয়ের অন্তর্ভুক্ত হইবে।

৮। যন্ত্রপাতি বাড়ী বা আসবাব পত্রের বিক্রয়ের সময় একধরণের মুনাফা সৃষ্ট হয় তাহাকে 'Balancing Charge' বলা হয়। হিসাবটি নিম্নে প্রদত্ত হইল।

(সম্পত্তির বিক্রয় মূল্য)—(হিসাবের বহিতে হ্রাসপ্রাপ্ত সম্পত্তি মূল্য) = সম্পত্তির বিক্রয়ে মোট মুনাফা। ঐ সম্পত্তির ক্রয় মূল্য হইতে ক্ষয় ক্ষতি বাবদ মোট যে পরিমাণ বাদ দেওয়া হইয়াছে সম্পত্তি বিক্রয়ে মোট মুনাফার (সর্বাধিক) সেই পরিমাণ লভ্যাংশকে "Balancing Charge" বলা হয়। এই লাভ ব্যবসায়ী লাভের অন্তর্ভুক্ত।

আদায়ের অযোগ্য কোন পাওনা (Bad debt) পুনরায় আদায় হইলে উহা ব্যবসায়ী লাভের পর্যায়ে পড়িবে।

১০। বৈজ্ঞানিক গবেষণার জন্য সৃষ্ট কোন সম্পত্তি যদি আর গবেষণার কার্যে ব্যবহার না করিয়া উহাকে বিক্রয় করিয়া দেওয়া হয় তাহা হইলে এই বিক্রয় হইতে* যে লাভ বা ক্ষতি হইবে তাহা ব্যবসায়ী লাভ বা ক্ষতির পর্যায়ে পড়িবে।

Q. 62. The Profit and Loss A/c of Dey Brothers & Co. for the year ended 31st March 1965 is given below. Compute the assessable income from business and total income.

Profit and Loss A/c

To Salaries and wages	5800	By gross profit	23200
„ Bad debt	1400	„ Discount	350
„ Reserve for Bad debt	2500	„ Interest on Debenture	
„ Trade Expenses	4200		1200
„ Audit fees	800	„ Profit on sale of Govt.	
„ Income Tax	2300	Securities	2500
Fire Insurance Premium	750		
„ Loss on Sale of Share	500		
„ Loss on Sale of car	1500		
„ Interest on Loan	600		
Interest on Capital	800		
Donation to Ram-			
krishna Mission	1000		
Depreciation on			
(i) Furniture	300		
(ii) Building	1500		
Net profit	3300		
	<u>27250</u>		<u>27250</u>

The facts are also given.

(i) The car was used both for office and personal purposes.

হিসাবের বহিতে হ্রাসপ্রাপ্ত সম্পত্তির মূল্যের তুলনায় এই লাভ বা ক্ষতির হিসাব করা হয়।

(ii) Admissible depreciation in respect of building and furniture amounted to Rs 1200 and Rs 250 respectively.

Ans.

	Rs.
Profit as per P & L A/c.....	3300
<i>Add Inadmissible expenses</i>	
Reserve for Bad debt 2500	
Income Tax 2300	
Loss on Sale of Share 500	
50% on loss of sale of Car 750	
Excess depreciation : 1800	
1450	
	350
Interest on Capital 800	
Donation to Ramkrishna Mission,	
	8200
Total	11,500
<i>Less Interest on Securities 1200</i>	
Profit on sale of Securities. 2500	
	3,700
Income from business	7,800
<i>Add income from interest on Securities</i>	1,200
Total income.	9,000

Note :—

Profit on sale of securities, being in the nature of long term capital gain, is not taxable as the amount of gain is below Rs. 5000.

Q. 63. The following is the Profit and Loss A/c of a merchant for the year ended 31st December 1964. Compute the assessable income from the business and total income.

Profit and Loss A/c

To Staff Salaries	6500	By Gross Profit	31200
Interest on Bank Loans	700	„ Interest on	
Interest on Capital	500	Debentures	
Reserve for Bad debt	650	of a Company	1500
Bad debt	1200	„ Bad debt	
Audit fees	700	Recovered	700
Income Tax	1500	„ Profit on sale	
Legal Charges	350	of Securities	1100
General Expenses	2500		
Donation to a College	700		
Office Rent	2400		
Net Profit	16800		
	<u>Rs. 34,500</u>		<u>Rs. 34500</u>

The following information is also supplied.

(i) Rs. 600, being the amount of employer's contribution to an unrecognised Provident Fund is included in the item of Staff salaries.

(ii) Rent for business office is the rent for the house owned by the proprietor of the business.

(iii) Amount admissible as depreciation according to the Act is Rs. 2100.

(iv) General Expenses includes Rs. 150 being expenses for personal purpose.

Ans.	Rs.	Rs.
Profit as per Profit and Loss A/c.		16800
<i>Add expenses inadmissible.</i>		
Interest on Capital.	500	
Reserve for Bad debt.	650	
Income Tax.	1500	
Donation to a college.	700	
Office rent.	2400	
(being rent payable to the proprietor of the business)		

Contribution to		
Unrecognised P. F.	600	
Personal Expenses.	150	
		6500
		23300
<i>less</i> Depreciation allowed		2100
		21200
<i>Less</i> income under different heads :—		
Interest on Debenture	1500	
Profit on sale of Securities.	1100	
		2600
Income from Business.		18600
Total income :—	Rs.	
Business income.	18600	
Interest on Securities	1500	
		20100
<i>Less</i> Annuity Deposit		1050
Reduced total income.		Rs. 19050

Notes :

Profit on sale of securities has been taken to be long term capital gain. As the amount of such gain is below Rs 5000, so it will not be taxable.

Annuity deposit is calculated in this case at 5% on so much of the income as does not exceed Rs. 20,000 and 50% of the amount by which the total income exceeds Rs. 20,000 ($7\frac{1}{2}\%$ on the whole amount is greater than this value).

Q. 64. The following is the Profit and Loss Account of M. Basak & Co. for the year ended 31st December 1964.

Profit and Loss A/c

	Rs.		Rs.
To Salaries	5,000	By Gross profit	30,700
„ Bad debt	800	„ Commission Recd.	800
„ Reserve for Bad debts	1000	„ Bad debt Recovered	400
„ Trade Expenses	3500		
„ Interest on Capital	1600		
„ Interest on Loan	800		
„ Advertisements	1800		
„ Donation to an Assn.	500		
„ Audit fees	600		
„ Fire Insurance premium	800		
„ Depreciation on			
Furniture	600		
„ Net profit Transferred			
to Capital A/c	14900		
	Rs. 31900		Rs. 31900

Compute the total assessable income from the business.

Ans.	Rs.	Rs.
Profit as per profit and Loss A/c		14900
Add inadmissible expenses		
Donation to an Association	500	
Reserve for Bad debts	1000	
Interest on Capital	1600	
		3100
Total income from business		18000
Less Total Annuity deposit @ 5%		900
Reduced Total income		Rs. 17100

Q. 65. The following is the Profit and Loss A/c of M/s A. Mukherjee & Co. for the year ended 31st March 1965. Compute the total income.

Profit and Loss A/c

To Salaries & Wages	12000	By Gross Profit	38475
„ Rent, Rates etc.	1400	Discount Recd.	525
„ Household Expenses	2500	Commission	
„ Income Tax	1000	Received	1000
„ Advertisements	900		
„ Postage & Telegrams	800		
„ Gifts and Presents	1000		
„ Fire Insurance			
Premium	800		
„ Life Insurance			
Premium	1200		
„ Provision for Bad			
and Doubtful Debts	1000		
„ Interest on Capital	500		
„ Audit fees	600		
„ Net profit transferred			
to Capital A/c	16300		
	Rs. 40000		Rs. 40000

(Question prepared according to Question in *M. Com*,
A. U. 1957)

Ans.

Profit as per Profit and Loss A/c	16300
Add Inadmissible expenses	
Household Expenses	2500
Income Tax	1000
Gifts and Presents	1000
Provision for bad debt	1000
Interest on Capital	500
Life Insurance premium	1200
	7200
	23500
	Rs.
Total income	23500'00
Less Annuity deposit @ $7\frac{1}{2}\%$	1765'00
Reduced total income	Rs. 21735'00

Notes :

The amount of annuity deposit is calculated to the nearest multiple of Rs. 5. In this case Rs. 1762.50 is taken as Rs. 1765.

Q. 66. Sri S. S. Bhattacharya, a businessman, prepared the following Profit and Loss Account for his book-Selling business for the year ended 31st December, 1964. Compute the total income from business.

Profit and Loss Account for the year ended 31st December 1964.

	Rs.		Rs.
To Rent	2000	By Gross Profit	42250
„ Wages & Salaries	6500	„ Commission Received	2750
„ Advertisement	3200		
„ Fire Insurance Premium	800		
„ Life Insurance Premium	360		
„ Bad debt	250		
„ Reserve for Bad debt	890		
„ Interest on Bank O/D	210		
„ Interest on Capital	340		
„ Charities & Donation	550		
„ Audit fees	800		
„ Postage and Telegrams	150		
„ Income Tax	2350		
„ Net profit	26600		
	Rs. 45000		Rs. 45000

(i) Advertisement includes an expense amounting to Rs. ~~4600~~ for the construction of a Sign Board.

(ii) Depreciation of furniture admissible amounted to Rs. ~~1690~~.

Ans.	Rs.
Profit as per Profit and Loss Account	26600
Add Expenses inadmissible :—	
Advertisement (cost of	Rs.
sign board)	600
Life Insurance premium	360
Reserve for Bad debt.	890
Interest on Capital.	340
Charities & Donation,	550
Income Tax.	2350
	5090
	Rs. 31690
Less depreciation allowance.	1690
Total income from business.	30000
Less Annuity deposit @ $7\frac{1}{2}\%$	2250
Total Reduced assessable income.	27750

Q. 67. The following is the profit and loss Account of Midco Ltd. for the year ended 31st March, 1965. Compute total assessable income.

Profit and loss Account for the year ended 31st march, 1965.

To Sundry office Expenses	43000	By gross profit	235000
„ Travelling Expenses	7200	„ Discount	
„ Carriage outward	5300	received	3000
„ Advertisement.	22750	„ Bad debt	
„ Rent and Local taxes	1300	recovered	2000
„ Penalty	1000	„ Miscellaneous	
„ Legal Charges	1200	receipts.	1000
„ Workmen's Accident			
Insurance	2100		
„ Postage & Telegrams	450		
„ Repairs and Renewals	700		
„ Director's fees	6200		

To Auditor's fees	1500	
„ Income Tax	12300	
„ Fire Insurance Premium	1200	
„ Telephone charges	400	
„ Interest on Bank Loan	750	
„ Bad debt	1750	
„ Installation Expenses of a new plant.	2500	
„ Depreciation—		
on Machinery	1800	
on Furniture	200	
on Buildings	<u>2200</u>	
	4200	
„ Net profit	125200	
	<u>241000</u>	<u>241000</u>

Notes :—

(i) Legal charges were incurred for defending a penalty charged against the company for breach of a Factory rule.

(ii) Depreciation admissible under the Act were as follows :—on Buildings Rs. 1500

on Furniture 150
on Machinery 1200

Ans.

Rs.

Profit as per profit and Loss Account 125200

Add Expenses inadmissible

Penalty 1000

Legal Charges 1200

Income Tax 12300

Installation Exp.
of a new plant 2500

Excess deprecia-
tion claimed 1350

18350

Total income from business. 143550

Q. 68. The following is the Income and Expenditure A/c of Sri D. Chatterjee an advocate, for the year ended 31st March 1965. Compute the assessable income of Sr Chatterjee.

Income and Expenditure A/c			
To Chamber Expenses	10500	By Legal Fees	30050
Charity	400	„ Income from	
Household Expenses	7500	Prize Bond	1000
Loss on Sale of		„ Dividend on	
Debentures	3200	Shares (Grossed up)	875
Income Tax	1200	„ Interest on	
		Securities	1425
Net income	13350	„ Director's fees	400
		„ Interest on Deposit	
		in Postal Savings	
		Bank	360
		„ Interest from Bank	550
		„ Presents from clients	500
		„ Interest on Tax free	
		Govt. Securities	1000
	<u>36150</u>	Total	<u>36150</u>

Ans.

Income from profession :—	Rs.
Legal Fees as per above A/c	30050
Less Chamber Expenses	10500
Net income from profession	19550

Income from other Sources :—

(i) Income from dividend	875
(ii) Director's fees	400
(iii) Interest from Bank	<u>550</u>
	1825

Income from securities :—

(i) Interest on Securities	1425
(ii) Int. on Tax free Govt. Securities	1000
	2425

Total income	Rs.
Income from profession	19550
„ „ Int. on Securities	2425
„ „ other Sources	1825
	23800
Less Annuity Deposit @ $7\frac{1}{2}\%$	1785
Reduced total income	22015

Notes. (i) Rebate will be allowed on Interest on Tax-free Govt. Securities at an average rate.

(2) Income from prize bond, Interest from Postal Saving Bank and Presents from client will not be included in his income.

Q. 69. The following is the Profit and Loss A/c of M/s X. Co. Ltd., for the year ended 31st March, 1961 :—

Profit and Loss Account for the year ended 31st. March. 1965.

	Rs.		Rs.
To Salaries	10200	By Gross profit.	125000
„ Printing & Stationery	3000	„ Premium on Issue	
„ Rent	2200	of Debenture	15000
„ Office Expenses	1500		
„ Motor car Expenses	1400		
✓ Reserve for doubtful debts	2000		
„ Director's fees	3000		
„ Auditor's fees	1000		
✓ Fines & Penalties	500		

✓ Legal charges	1200	
„ Interest on Loans	3000	
✓ Under writing		
Commission	2000	
✓ Cost of Issuance of		
Debentures	2500	
✓ Donation to Bihar Flood		
Relief Fund	5000	
„ Workmen's Compensation		
and Accident Insurance	700	
„ Loss by embezzlement	10000	
„ Compensation to Mg		
Agents for termination		
of their services	25000	
„ Managing Agents'		
Commission for 8 months	8000	
„ Net profit (subject to		
depreciation and income		
Tax)	57800	
	<hr/>	
	140000	140000

Find out the total income of the company and tax payable after taking into consideration the following :—

(a) Depreciation on furniture and fixtures (written down value Rs. 12000)

(b) Services of Mg. Agents are terminated from 30th. November, 1960 in the interest of the Company.

(c) Legal Charges were incurred to defend proceedings for the levy of penalty.

(d) Assume Income-tax rate @ 20% and corporation Tax rate at 25%.

CHAPTER VI

DEPRECIATION AND DEVELOPMENT REBATE

Q. 70. Define the term 'Depreciation'

Ans. It is not defined in the Income Tax Act. It means diminution in the value of asset by reason of wear and tear through its use in the process of production. It is an item of revenue expenditure. To ascertain the exact profit of any concern, all revenue expenditure must be charged against income of the concern. Therefore, an allowance for depreciation is granted in respect of capital assets under the Income Tax Act.

Q. 71. Who is entitled to such Depreciation ?

Ans. (1) It is the owner of capital asset who is entitled to such depreciation allowance provided he carries on business or profession and the asset is used in the business or profession ;

A lessee is not entitled to claim such allowance for depreciation on the lease of building, machinery, plant, furniture etc., because he is not the owner of the asset although he may carry on business and the assets are used in the business.

(2) A person who has obtained an asset on hire purchase agreement cannot also claim such allowance for depreciation because of the absence of full title to such asset.

Q. 72. What is Partial Depreciation ?

Ans. Sometimes certain assets are partly used for business and partly for private purpose. In such cases a fair proportionate amount of depreciation shall be allowed in respect of the assets partly used for the business.

Certain assets are not sometimes used in the business throughout the year. In such cases, depreciation is to be allowed as follows :

(a) If the asset has been used for 180 days or more in the previous year, depreciation is to be charged for the full year.

(b) If the asset has been used during the previous year for more than 30 days but less than 180 days, half of such depreciation allowance is to be charged.

(c) If the asset has been used during the previous year for less than 30 days, no depreciation allowance is to be charged.

In case of industry where the production is seasonal, full depreciation is to be charged if the asset is used during all the working season of the previous year. Prior to the Assessment year 62-63, allowance for depreciation was made proportionate to the number of complete months for which the assets have been in use.

Conditions for the Grant of Depreciation :

Depreciation allowance can be claimed in respect of building, machinery, plant and furniture if the following conditions are fulfilled.

(i) The prescribed particulars regarding the assets must be furnished with the I.T.O.

(ii) The aggregate of all deductions in respect of depreciation made under Section 32 or under any former Income Tax Act must not exceed the actual cost to the assessee of the building, machinery, plant and furniture, as the case may be.

In case of assets transferred by a Holding Company to its wholly owned Indian Subsidiary Company, account shall have to be taken of all deductions allowed in respect of such assets in the possession of the Holding Company

to determine the aggregate of all deductions in respect of depreciation.

(iii) Depreciation allowance is not granted in respect of building, machinery, plant or furniture for that previous year in which the assets are sold, discarded, demolished or destroyed. As per Section 40 of the Act, when an asset is used by a Director or a person having substantial interest in the company or by the relative of a Director or of such person wholly or partly for his own benefit, allowance for depreciation will be granted only to the extent upto which it is not considered excessive and unreasonable in the opinion of the I.T.O. having due regard to the legitimate business needs of the company.

Types of Depreciation .

- (1) Normal Depreciation ;
- (2) Extra Shift Depreciation ;
- Terminal Depreciation ; and
- (1) Initial Depreciation.

1. Normal Depreciation :

Ordinarily depreciation is allowed on building, plant, machinery and furniture at the prescribed rates on the written-down value of the asset and in case of ocean-going ship depreciation is allowed with reference to the actual cost and not to the written-down value. The written down value of the asset is, of course, calculated with reference to the actual cost. In case of ship plying on in-land water depreciation is allowed on the written-down value.

(2) Extra Shift Depreciation :

As per Income Tax Rules 62, the normal number of working days in a year is taken as 300. A factory may work double or triple shifts. The wear and tear of the asset for this double or triple shift working will be surely

greater than single shift working. Naturally extra shift allowance at the rate of 50% of the normal rate is granted for the extra shift. Allowance for this extra shift for the number of days worked is generally calculated with reference to the normal working days (i. e., 300 days)

Example : A factory has worked throughout the year for single shift and 200 days for double shift. Then the depreciation allowance will be as follows ;

Normal Depreciation + 50% of $\frac{200}{300}$ of the normal depreciation allowance.

(3) Terminal Depreciation :

If any building, plant, machinery or furniture is sold, discarded or demolished in the previous year (other than the previous year in which it is first brought into use) the amount by which the moneys payable in respect of such asset together with the amount of scrap value, if any, falls short of the written-down value thereof, is allowed as terminal depreciation provided that such deficiency is actually written off in the books of the assessee.

Explanation—For the purpose of this clause

(1) 'Moneys payable' in respect of any building, machinery, plant or furniture includes,

(a) any insurance, salvage or compensation moneys payable in respect thereof ;

(b) where the building, machinery, plant or furniture is sold, the price for which it is sold ;

(c) 'sold' includes a transfer by way of exchange or a compulsory acquisition under any law for the time being in force.

Example—Taking 'A' for the written-down value and 'B' for the money payable in respect of asset sold, discarded etc. and 'C' for the scrap value of the asset, we may find out Terminal Depreciation as follows—

Terminal Depreciation = A - (B + C).

Initial Depreciation :

As per Section 32 (1) (iv) of the Act, Initial Depreciation is granted in respect of certain buildings. The conditions for the grant of Initial Depreciation are as follows—

(1) The building has been newly erected after 31.3.61.

and (2) The building must be solely used for the purpose of residence of the persons employed in the business and drawing a monthly remuneration not exceeding Rs 200/-.

OR

The building is used solely for the welfare of such person as hostel, creche, school canteen, library, recreational centre, shelter, rest-room or lunch-room etc.

If these conditions are fulfilled, 20% of the actual cost of the building to the assessee in respect of the previous year of erection of the building is allowed as initial depreciation. But this amount should not be deducted in determining the written-down value for the purpose of ordinary depreciation.

Balancing charge :

As per Section 41 (2) of the Act, where any building, machinery, plant or furniture which is owned by the assessee and which was or has been used for the purpose of business or profession, is sold, discarded, demolished or destroyed, and the money payable in respect of such building, machinery, plant or furniture, as the case may be, together with the amount of scrap value, if any, exceeds the written down value so much of the excess as is equal to the amount of total depreciation allowed including initial depreciation in respect of building, shall be chargeable to income-tax as income from business or profession of the previous year in which the money payable for those assets become due.

When the money which is payable in respect of these assets together with the amount of scrap value exceeds the actual cost of the assets, such excess over the actual cost will be termed as 'Capital Gain'.

Suppose—

A = actual cost of the asset

B = total depreciation allowed

$(A - B) = C$ = written-down value

Let D = money payable in respect of asset sold, discarded, demolished or destroyed.

Then $D - C = E$ = Balancing charge + Capital gain. The portion of E upto the amount which is equal to B is called Balancing Charge, and the rest will be Capital Gain. Capital Gain will arise only when D exceeds A .

The provision of Section 41(2) will apply in case of re-organisation of business when a firm is converted into a Private Limited Company and the partners become the share-holders in the company holding shares in the same proportion in the Company. The transfer of asset from the firm to the company will not be regarded as sale and the difference that may arise from such transfer of asset at a higher value than its book value, will not be charged to income-tax.

Q. 73. What is Un-absorbed Depreciation :

Ans. As per Section 32 (2) of the Act, where in the assessment of the assessee on account of insufficiency or absence of chargeable profit of any business or profession, the full effect of depreciation allowance cannot be given, the balance of such depreciation allowance to which the effect has not been given is termed as 'Unabsorbed Depreciation'. Depreciation allowance means here initial depreciation, normal depreciation and extra shift depreciation.

The balance of terminal depreciation which cannot be charged is not included in the unabsorbed depreciation, but it is to be allowed as a loss for the year.

Set-off and Carry forward of Unabsorbed depreciation :

In the case of absence or insufficiency of chargeable profit if full depreciation allowance cannot be given effect to in any year, the un-absorbed portion of the depreciation can be set-off against the chargeable profit of any other business of the assessee or against the chargeable income under any other head for that year ; if there still remains any un-absorbed depreciation it may be carried forward to the subsequent year and set off against the succeeding year's chargeable profit. The un-absorbed portion of the depreciation which is carried forward from any previous year is to be treated equally with the current year's depreciation allowance. It is to be noted here that the un-absorbed depreciation of a business which has been discontinued, cannot be set-off against the profit of an existing business. If the business is sold or transferred to any other person, the un-absorbed depreciation of the transferor cannot be arisen to the transferee.

Un-absorbed depreciation can be carried forward without any time limit, but a business loss can be carried forward only for 8 years. Therefore, where there is an un-absorbed depreciation as well as business loss carried forward from any previous year, business loss ranks first between the two in respect of setting off against the chargeable profit.

Actual Cost

Actual cost is important for the purpose of depreciation because

- (i) depreciation is allowed in respect of ocean-going ship with reference to the actual cost ;

(ii) **Written-down value** of the asset also is calculated with reference to the actual cost ;

(iii) the aggregate of all depreciation allowances must not exceed the actual cost of the asset. The actual cost of an asset is the total outlay for the acquisition of the asset.

Section 43 (1) provides that actual cost means actual cost of an asset to the assessee as reduced by that portion of the cost thereon, if any, as has been made directly or indirectly by any other person or authority.

Explanation :

Where an asset is used in the business after it ceases to be used for scientific research related to that business, the actual cost thereof shall be the actual cost of the asset to the assessee as reduced by the amount of any deduction allowed under Section 35 or under any provision of former Act.

Where an asset is acquired by an assessee by way of gift or inheritance, the actual cost of the asset to the assessee shall be the written-down value thereof as in the case of previous owner or its market value thereof on the date of such acquisition, whichever is lower.

Where before the date of acquisition by the assessee the assets were used by any other person for the purpose of business and the I.T.O is satisfied that the main purpose of the transfer of asset to the assessee was to reduce the liability to Income-tax by claiming higher depreciation allowance with reference to higher actual cost, the actual cost to the assessee in such cases shall be the amount as the I.T.O may determine having due regard to the circumstances of the case. The I.T.O, of course, must take previous approval of the Inspecting Assistant Commissioner in this case.

When the assessee re-acquires any asset which originally belonged to him and subsequently transferred, the

actual cost of the asset to the assessee shall be the lower of the following two amounts.

(i) actual cost to him when it is first acquired *minus* the amount of all depreciations so far allowed to him (including terminal depreciation or deducting balancing charge)

(ii) the actual price for which the asset is re-acquired by him.

Where a building which was previously the property of the assessee is brought into use for the purpose of business or profession after 28-2-46, the actual cost to the assessee shall be the actual cost of the building *minus* an amount equal to the total depreciation. Such depreciation is to be calculated at the rate in force on the date of introduction of the building to the business for all the years upto the date of introduction from the date of acquisition.

Where any capital asset is transferred by a holding Company to its wholly owned Indian Subsidiary Company, the actual cost of the transferred capital asset to the subsidiary company shall be taken to be the same as it would have been if the parent company had continued to hold the capital asset for the purpose of the business.

“Written down Value” means—

(a) in the case of assets acquired in the previous year the actual cost to the assessee ;

(b) in the case of assets acquired before the previous year, the actual cost to the assessee *less* all depreciation actually allowed to him under any former Act.

Explanation.—

1. When in a case of succession in business or profession, an assessment is made on the successor under Section 170(2) the written down value of any asset shall be amount which would have been taken as its written down value

if the assessment had been made directly on the person succeeded to.

2. When any capital asset is transferred by a company to its wholly owned subsidiary company, then the written down value of the transferred capital asset to the subsidiary Company shall be taken to be the same as it would have been if the parent company had continued to hold the capital asset for the purpose of its business.

3. Any allowance in respect of un-absorbed depreciation carried forward shall be deemed to be depreciation actually allowed.

4. For the purpose of calculating the normal depreciation the amount of initial depreciation shall not be deducted in computing the written down value of the assets. For the purpose of calculating terminal depreciation or balancing charge the amount of initial depreciation shall be deducted in computing written down value of the assets.

Development Rebate.

74. Explain — 'Development Rebate.

[C. U. M. Com. 1960, 1963]

Ans.

As per Section 33 a rebate known as development rebate in the nature of an admissible expense is allowed to an assessee in respect of a new ship acquired or new machinery or plant (other than office appliances or road transport vehicles) installed after the 31st day of March, 1954 which is owned by the assessee and wholly used for the purpose of the business carried on by him. A certain percentage of the actual cost is allowed as an admissible expense in the year of installation or acquisition.

Rates of Development Rebate with reference to the actual cost to the assessee.

- (i) In the case of ship acquired after 31.12.1957.....40%
- (ii) „ „ „ „ „ before 1.1.1958.....25%
- (iii) „ „ „ of Machinery or Plant
installed before 1.4.61.....25%
- (iv) „ „ „ of Machinery or plant
installed after 31.3.61.....20%

For the purpose of Coal mining business :—

- (v) In the Case of Plant or Machinery installed after 31.3.63 and before 1.4.66. rate of development
rebate.....35%

‘Actual Cost’ of the Ship, Plant, or Machinery is calculated in the same manner as in the case of normal depreciation under Section 33(1A).

Development rebate in the case of Second hand ship

In the case of ship used by any person and subsequently acquired by the assessee after 31.3.64., development rebate case is allowed at the rate prescribed by the Finance Act provided the following two conditions and any other conditions as may be prescribed are fulfilled :—

(1) before such acquisition by the assessee the ship was not at any time owned by any person resident in India.

(ii) the ship is entirely used for the purpose of the business carried on by the assessee.

Development rebate in the case of the Second hand Plant & Machinery (other than office appliances or road transport vehicles)

Development rebate is allowed at the prescribed rate in respect of plant or machinery installed by the assessee, which, before such installation, was used by any other person outside India provided that the following condi-

tions and any other conditions as may be prescribed are fulfilled :—

- (i) The asset in question was not used in India before the date of such installation by the assessee.
- (ii) It is imported from abroad.
- (iii) No depreciation or development rebate in respect of such asset has been allowed prior to the date of such installation.
- (iv) It is wholly used for the purpose of the business carried on by the assessee.

Development rebate is allowed as a deduction in respect of the previous year in which the ship is acquired or machinery or plant is installed provided the asset is put to use for the purpose of the business in the same previous year.

But if the asset is first put to use in the “succeeding year” rebate will be allowed in the succeeding year.

Rebate will not be allowed if the asset is put to use in year later than the ‘succeeding year’.

Q. 75. What are the Conditions for the grant of development rebate ?

Ans. (i) The particulars prescribed for the purpose of depreciation have been furnished by the assessee in respect of ship or plant or machinery.

(ii) An amount equal to 75% of the development rebate to be actually allowed is debited to the Profit and Loss A/c of the relevant previous year and credited to a reserve account.

This reserve can be utilised by the assessee during the period of following next eight years for the purpose of business or the undertaking. But this reserve cannot be utilised—

- (i) for the distribution by way of dividends or profits : or,

(ii) for the remittance outside India as profits or for the creation of any asset outside India.

This condition shall not apply where the assessee, is an **Electric supply Company** or where the ship has been acquired or machinery or plant has been installed before 1.1.58.

(ii) The ship, machinery or plant must not be sold or otherwise transferred by the assessee to any person at any time before the expiry of 8 years from the end of the previous year in which it was acquired or installed.

This clause shall not apply—

(a) Where the ship has been acquired or machinery or plant has been installed before 1.1.58 ; or

(b) Where the ship, machinery or plant is sold or otherwise transferred by the assessee to the **Govt.**, a **local authority**, a **corporation** established by a central or state Act or a **Govt. company**.

(c) Where the sale or transfer of the ship, machinery or plant is made in connection with the **amalgamation** or **succession** under Section 33(4) & 33(3).

If the assessee does not fulfil any of the conditions in (ii) & (iv) he will not be allowed development rebate already granted.

Any allowance for development made under Section 33 or under corresponding provision of any other Act shall be deemed to have been wrongly made for the purpose of the Act. **Revision of assessment** will be made under Section 155(5) of the Act. as a rectification of its mistake. Development rebate already granted shall be **withdrawn**.

Carry forward (Section 33(2)

If full amount of development rebate can not be given effect to on account of insufficiency or absence of profit in the previous year in which the asset is acquired or installed in the immediately succeeding year as the case

may be, rebate to be allowed for the relevant assessment year shall be limited to the total income and balance of such development rebate shall be carried forward for the following years. So long full effect of development rebate can not be given effect to the process of carrying forward will continue up to 8 assessment years.

Explanation—When for any assessment year development rebate is to be allowed in respect of ship acquired or machinery or plant installed in more than one previous year and the total income of the assessee assessable for that assessment year is less than the aggregate of the amounts due to be allowed in respect of the assets aforesaid for the assessment year, the following procedure shall be followed :—

(i) The allowance for an earlier Previous Year shall be made before any allowance for the previous year relevant to assessment year is made.

(ii) When development rebate is carried forward for more than one assessment year, the amount carried forward shall be allowed before any amount carried forward from a later assessment year.

(iii) Where there are both un-absorbed development rebate and un-absorbed depreciation, depreciation both current and un-absorbed, should be deducted first before any allowance for unabsorbed development rebate is made. This is applicable in respect of the assets installed after 31.12.57.

Development rebate in case of amalgamation of companies and conversion of firm into a company.

In a scheme of amalgamation, a company which transfers its' assets to another company formed under such scheme, the transferee company is referred to here as 'predecessor' and the transferor as successor. If in such a case of amalgamation the predecessor transfers its ship,

machinery or plant in respect of which development rebate has been allowed, such rebate will not be withdrawn if the successor fulfill the conditions in respect of reserve created by the predecessor and in respect of the period within which those assets are not to be transferred as specified in Section 33 (3). If the successor fails to fulfill any of those conditions the provision of Section 155 (5) will apply. Development rebate will be withdrawn in that case.

The rules regarding carry forward of un-absorbed development rebate are equally applicable in case of the successor provided the total period of carry forward does not exceed 8 years.

For the purpose of this sub-section "amalgamation" means the merger of two or more companies in such a manner that—

(a) All the property of the amalgamating companies immediately before the amalgamation becomes the property of the amalgamated company by virtue of such amalgamation.

(b) All the liabilities of the amalgamating companies immediately before the amalgamation become the liabilities of the amalgamated company by virtue of the amalgamation.

(c) Share holders holding not less than nine-tenths in the value of the shares of the amalgamating companies immediately before the amalgamation become shareholders of the amalgamated company by virtue of such amalgamation.

Amalgamation includes also the merger of a wholly owned Indian subsidiary company with the parent company.

Succession to a firm

Where a firm is succeeded to by a company in the business carried on by it as result of which the firm sells

or otherwise transfers to the company any ship, machinery or plant in respect of which development rebate has been allowed, such rebate will not be withdrawn if the company fulfills the conditions in respect of development rebate as specified in Section 34 (3).

The provisions of this clause shall apply only where

- (i) All the property and liabilities of the firm relating to the business immediately before the succession become the property and liabilities of the company and
- (ii) All the shareholders of the company were partners of the firm immediately before the succession.

মূল্যহ্রাস (Depreciation)

ব্যবহারের দরুন বা কালানতিক্রমে বাড়ী, যন্ত্রপাতি, আসবাবপত্র ইত্যাদির যে ক্ষয়-ক্ষতি হইয়া থাকে তাহাকেই মূল্যহ্রাস (Depreciation) বলা হয়।

কোন ব্যক্তির নীচ গ্রাহ্য নির্ধারণে সম্পত্তির “মূল্যহ্রাস” গ্রহণ যোগ্য ব্যয় বলিয়া ধরা হয় যদি—

(১) সেই ব্যক্তি উক্ত সম্পত্তির মালিক হয় এবং (২) উক্ত সম্পত্তি তাহার ব্যবসায় ব্যবহৃত হয়।

সম্পত্তি বলিতে শুধু যন্ত্র, যন্ত্রপাতি, অট্টালিকা ও আসবাবপত্র বুঝায়। একই পূর্ববর্তী বৎসরে সম্পত্তি ক্রয় ও বিক্রয় হইলে ঐ সম্পত্তি বাবদ কোন মূল্যহ্রাস করা চলিবেনা।

‘গ্রাহ্যকর আইনে “মূল্য হ্রাস” চারি প্রকার ধরা হয় (১) সাধারণ মূল্যহ্রাস (২) প্রাথমিক মূল্যহ্রাস (৩) একাধিক বার যন্ত্র ব্যবহারে অতিরিক্ত মূল্যহ্রাস (৪) অন্তিম মূল্যহ্রাস।

আয় হইতে মূল্যহ্রাস বাবদ বাদ—

সাধারণ মূল্যহ্রাস (Ordinary Depreciation) (ক) অট্টালিকা যন্ত্রপাতি ও আসবাব পত্রের হ্রাস প্রাপ্ত মূল্যের (Written Down Value) উপর আইনের নির্ধারিত হারে মূল্যহ্রাস করা হয়।

(খ) জাহাজের প্রকৃত ক্রয় মূল্যের (Actual Cost) উপর আইনের নির্ধারিত হারে মূল্যহ্রাস করা হয়।

এ সকল সম্পত্তি ব্যবসায় ও ব্যক্তিগত কাজে এই উভয় ভাবে ব্যবহৃত হইলে ব্যবসায় ব্যবহারের অল্পপাতে উক্ত মূল্যহ্রাস বাবদ বাদ গ্রহণ যোগ্য হইবে।

এ সকল সম্পত্তি ব্যবসায় কোন বৎসরে ১৮০ বা ততোধিক দিন ব্যবহৃত হইলে পূর্ণহারে মূল্যহ্রাস করা হইবে।

এ সকল সম্পত্তি কোন বৎসরে ৩০ বা ততোধিক দিন কিন্তু ১৮০ দিনের কম ব্যবহৃত হইলে নির্ধারিত হারের অর্ধেক মূল্যহ্রাস করা হইবে।

এ সকল সম্পত্তি ৩০ দিনের কম ব্যবহৃত হইলে কোন মূল্যহ্রাস করা চলিবে না।

যন্ত্রপাতি দৈনিক একাধিক বার ব্যবহারের দরুন অতিরিক্ত মূল্যহ্রাস (Extra-Shift Depreciation)—কোনও কোনও কারখানা দৈনিক দুইবার বা তিনবার ও (Double Shift or Triple Shift) চালান হয়। ইত্যেত যন্ত্রপাতির অতিরিক্ত ক্ষয় ক্ষতি হয়। এই অতিরিক্ত ক্ষয়ক্ষতির দরুন মূল্যহ্রাসও আতিরিক্ত হারে করা হয়। আতিরিক্ত মূল্যহ্রাসের পদ্ধতি নিম্ন-পঃ—৩০০ দিন বৎসরে স্বাভাবিক ব্যবহারের দিন বালুকা করা হয়, দৈনিক একাধিক বার বৎসরের মোট যতদিন কারখানা চালান হইবে তাহা এই ৩০০ দিনের অল্পপাতে বসান হইবে। প্রতিটি বারের (Shift) প্রত্যেক বৎসরের এ আনুপাতিক অংশের জন্য নির্ধারিত হারের অর্ধেক মূল্য হ্রাস করা হইবে।

মনে করা হউক, কোন কারখানা বৎসর ১৮০ দিন দৈনিক দুইবার (Double Shift) চালু রাখা হইয়াছে। এইভাবে দৈনিক দুইবার ব্যবহারের দরুন যে আতিরিক্ত মূল্যহ্রাস করা হইবে তাহা হইল—

$$\frac{2}{3} \times \text{মূল্যহ্রাসের সারারণ নির্ধারিত হার} \times \frac{180}{360} = \text{অতিরিক্ত মূল্যহ্রাস}$$

কারখানা দৈনিক তিনবার চালু থাকিলে তৃতীয়বারের জন্যও এই একইভাবে অতিরিক্ত মূল্যহ্রাস হিসাব করা হইবে।

প্রাথমিক মূল্যহ্রাস (Initial Depreciation)

১লা এপ্রিল ১৯৬১ সালের পরে কোন নিয়োগ কর্তা মাসিক অনধিক ২০১ টাকা বেতনের কর্মচারীদের বাসস্থানের জন্য যদি কোন অট্টালিকা তৈয়ার করেন তাহা হইলে বাড়ী তৈয়ারীর বৎসরে উহার উপর ২০% হারে প্রাথমিক

মূল্য হ্রাস গ্রহণ যোগ্য হইবে। বাড়ীর হ্রাসপ্রাপ্ত মূল্য নির্ধারনে এই প্রাথমিক মূল্যহ্রাস ধরা হইবে না।

উক্ত বাড়ী এইরূপ কর্মচারীদের হাসপাতাল, স্কুল, ক্যাটিন, লাইব্রেরী, বিশ্রামাগার, খাবার ঘর ইত্যাদি বিভিন্ন উদ্দেশ্যে ব্যবহারের জন্য তৈয়ারী হইলেও প্রাথমিক মূল্যহ্রাসের অগ্ররূপ স্বীকৃতি দেওয়া হইয়া থাকে।

অন্তিম মূল্যহ্রাস (Terminal Depreciation) ও মূল্যস্বাক্ষিত লান্ড (Balancing Charge)

কোনও বাড়ী যন্ত্রপাতি বা আসবাবপত্র বিক্রয় করিয়া দেওয়া হইলে অথবা 'গহ' ব্যবহারের অযোগ্য হইবার পর বাতিল করিয়া দেওয়া হইলে অথবা উহা নষ্ট হইয়া গেলে উহার মূল্য বাবদ বা ছিটছাটের মূল্যবাবদ যাহা পাওয়া যাইবে তাহা যদি উক্ত সম্পত্তির হ্রাস প্রাপ্ত মূল্যের চেয়েও কম হয় তাহা হইলে সেই ঘাটতি অংশটুকুকে অন্তিম মূল্যহ্রাস বলা হয় এবং; ইহা একটি গ্রহণযোগ্য ব্যয়।

পক্ষান্তরে উহা (মূল্য বাবদ যাহা পাওয়া যায়) যদি হ্রাসপ্রাপ্ত মূল্যের অধিক হয় তাহা হইলে ঐ উদ্ধৃত অংশকে 'Balancing Charge' বলা হয়।

ঐ Balancing Charge এর সর্বোচ্চ পরিমাণ মোট মূল্যহ্রাসের (Total Depreciation) সমপরিমাণ হইবে। ঐ উদ্ধৃত অংশ ইহারও অধিক হইলে ঐ বাড়ীতে অংশকে মূলধনী লাভ বলিয়া গণ্য করা হইবে।

মূল্যহ্রাস গ্রহণ যোগ্য হইবার শর্ত—(১) ঐ সকল যন্ত্রপাতি, বাড়ী ইত্যাদি সম্পর্কে আইন সম্মত বিবরণ দাখিল করিতে হইবে। (২) মোট মূল্যহ্রাস কখনও ক্রয়মূল্যের অধিক হইতে পারিবে না।

উন্নয়ন-বাটা (Development Rebate)

১৯৫৪ সালের ৩১শে মার্চের পরে নূতন জাহাজ ক্রয় করিলে বা নূতন যন্ত্রপাতি বসান হইলে উহার জন্য উন্নয়ন-বাটা ব্যবসায়ের ব্যয় বলিয়া গ্রাহ্য হয়। ঐ সকল যন্ত্রপাতি বা জাহাজ সম্পূর্ণ-রূপে ব্যবসায়ে ব্যবহৃত হওয়া আবশ্যক এবং করদাতার উহার উপর মালিকানা থাকা চাই। অফিসের সরঞ্জাম বা রাজপথের যানবাহন ক্ষেত্রে এই বাটা গ্রাহ্য নয়।

উন্নয়ন-বাটার হার—

(ক) ৩১।১২।১৯৫৭ তারিখের পরে ক্রীত নূতন জাহাজের ক্ষেত্রে এই হার জাহাজের প্রকৃত ক্রয় মূল্যের ৪০% হইবে।

(খ) ১।১।১৯৫৮ তারিখের পূর্বে ক্রীত নূতন জাহাজের ক্ষেত্রে এই হার জাহাজের প্রকৃত ক্রয় মূল্যের ২৫% হইবে।

(গ) ১।৪।৬১ তারিখের পূর্বে ক্রীত নূতন যন্ত্রপাতির ক্ষেত্রে এই হার যন্ত্রপাতির প্রকৃত ক্রয় মূল্যের ২৫% হইবে।

(ঘ) ৩১।৩।৬১ তারিখের পরে ক্রীত নূতন যন্ত্রপাতির ক্ষেত্রে এই হার যন্ত্রপাতির প্রকৃত ক্রয়মূল্যের ২০% হইবে।

কয়লা খনির যন্ত্রপাতির ক্ষেত্রে—

৩১।৩।৬৩ তারিখের পরে এবং ১।৪.৬৬ তারিখের পূর্বে বসান যন্ত্রপাতির ক্ষেত্রে এই হার ৩৫% হইবে।

এই জাহাজ বা যন্ত্রপাতির প্রকৃত ক্রয়মূল্য বলিতে সাধারণতঃ পূর্বমালিকের হাতে উহার হ্রাসপ্রাপ্ত মূল্য বাহা তাহাই বুঝায়।

ব্যবহৃত জাহাজ বা যন্ত্রপাতির ক্ষেত্রে উন্নয়ন-বাটা—

অন্যকোন ব্যক্তির দ্বারা ব্যবহৃত কোন জাহাজ যদি ৩১।৩।৬৪ তারিখে পরে ক্রীত হইয়া থাকে তাহা হইলে নিম্নোক্ত শর্ত সাপেক্ষে একটি নির্ধারিত হারে এই উন্নয়ন-বাটা দেওয়া হয়।

(ক) করদাতার ক্রয়ের পূর্বে এই জাহাজ কখনও কোন ‘ভারতের বাসিন্দার’ (Resident in India) মালিকানাধীন ছিল না।

(খ) জাহাজখানি সম্পূর্ণরূপে করদাতার ব্যবসায়ের জন্যই ব্যবহৃত হইবে।

যদি করদাতা ভারতের বাহিরে অন্ত্রকোন ব্যক্তির দ্বারা ব্যবহৃত যন্ত্রপাতি স্থাপন করিয়া থাকে তাহা হইলে নিম্নোক্ত শর্ত সাপেক্ষে ঐ যন্ত্রপাতি সম্পর্কে উন্নয়ন-বাটা দেওয়া হয়।

(ক) করদাতা কর্তৃক স্থাপনের পূর্বে এই যন্ত্রপাতি কখনও ভারতের মধ্যে ব্যবহৃত হয় নাই।

(খ) ভারতের বাহির হইতে এই যন্ত্রপাতির আমদানী করা হইয়াছে।

(গ) এইবার স্থাপনের পূর্বে এই যন্ত্রপাতি সম্পর্কে আর কখনও মূল্যভ্রাস বা উন্নয়ন-বাটা গ্রাহ্য হয় নাই।

(খ) ইহা সম্পূর্ণরূপে করদাতার ব্যবসায় ব্যবহৃত হইবে।

যে পূর্ববর্তী বৎসরে এই যন্ত্রপাতি স্থাপন করা হয় বা জাহাজ ক্রয় করা হয় তাহা হইলে সেই বৎসর অথবা ক্রয়ের ঠিক পরের পূর্ববর্তী বৎসরে যদি যন্ত্রপাতি স্থাপন করা হয় তাহা হইলে সেই পরের বৎসরে এই উন্নয়ন-বাটা গ্রহণ যোগ্য ব্যয় বলিয়া গণ্য হইবে।

উন্নয়ন-বাটার শর্ত—

(১) এই সকল জাহাজ বা যন্ত্রপাতির মূল্যভ্রাস সম্পর্কে আইন-সম্মত বিবরণ দাখিল করা আবশ্যিক।

(২) ব্যবসায়ের লাভলোকসানের খতিয়ানে এই উন্নয়ন বাটার ৭৫% খরচ দেখাইয়া একটি উন্নয়ন তহবিলে জমা করা হইবে। এবং এই তহবিল হইতে ৮ বৎসরের মধ্যে কোন অংশ লভ্যাংশ বা মুনাফা হিসাবে বিতরণ করা চলিবে না অথবা ভারতের বাহিরে কোন সম্পত্তি ক্রয়ের জন্ত কোন অংশ প্রেরণ করা চলিবে না।

অবশ্য এই ১নং শর্ত কোন বিদ্যুৎ পরিবেশন সংস্থার ক্ষেত্রে প্রযোজ্য নয়।

(৩) ঐসকল যন্ত্রপাতি বা জাহাজ ক্রয়ের ৮ বৎসরের মধ্যে বিক্রয় করা চলিবে না। এই ৩নং শর্তটি আবার নিম্নোক্ত ক্ষেত্রে প্রযোজ্য হইবে না।

(ক) ঐ জাহাজ বা যন্ত্রপাতি ১৯৫৮ তারিখের পূর্বে ক্রয় করা বা স্থাপন করা হইলে, অথবা

(খ) ঐ জাহাজ বা যন্ত্রপাতি কোন সরকারকে বা সরকারী প্রতিষ্ঠানের নিকট হস্তান্তরিত হইলে, অথবা

(গ) কোন 'একত্রীকরণের' ফলে উহা একত্রিত সংস্থার নিকট হস্তান্তরিত হইলে।

যদি কোন করদাতা ১নং ও ২নং শর্ত ভঙ্গ করিয়া ফেলে তাহা হইলে উন্নয়ন-বাটা আবার তুলিয়া লওয়া হইবে এবং উহা পুনরায় আয়করের আওতায় পড়িবে।

অনেক ক্ষেত্রে মুনাফার স্বল্পতার দরুণ নির্দিষ্ট পূর্ববর্তী বৎসরের হার হইতে সম্পত্তির মূল্যভ্রাস বা উন্নয়ন বাটা জনিত ব্যয় সম্পূর্ণরূপে বাদ দেওয়া চলে না।

এই অ-সঞ্চলিত, ব্যয়কে যথাক্রমে 'Unabsorbed Depreciation ও Unabsorbed Development Rebate' বলা হয়।

উন্নয়ন বাটা জনিত কোন অ-সঞ্চলিত ব্যয় নির্দিষ্ট বৎসরের পরবর্তী ৮ বৎসর পর্যন্ত বিভিন্ন বৎসরের আয় হইতে বাদ দেওয়া চলিবে। চলতি বৎসরের আয় হইতে উন্নয়ন-বাটা জনিত চলতি বৎসরের ব্যয়ের পূর্বে পূর্বের অ-সঞ্চলিত ব্যয় বাদ দিতে হইবে।

সম্পত্তির মূল্য হ্রাস জনিত কোন অ-সঞ্চলিত ব্যয় নির্দিষ্ট বৎসরের পরবর্তী ষত বৎসরে সম্ভব তত বৎসরের আয় হইতেই বাদ দেওয়া চলিবে। এই ক্ষেত্রে বৎসরের সীমা বাধিয়া দেওয়া হয় নাই।

ILLUSTRATIONS

Q. 76. An engineering company furnishes the following particulars regarding its machinery. The previous year is counted from 1st. April every year.

A new machinery costing Rs. 400000 was installed on 1st. April 1963. Calculate the amount of depreciation and development rebate for the assessment year 1964-65 and 1965-66 and the W. D. V. as on 1.4.65. The normal rate of depreciation on machinery is 10%.

Ans.

Assessment year 1964-65

	Rs.
Actual cost on 1.4.63	400000
Development rebate @ 20%	80000
Depreciation @ 10%	40000
W. D. V. as on 1.4.64 (400000-40000)	360000

Assessment year 1965-66

Written Down value on 1.4.64	360000
Less. Depreciation @ 10%	36000
Written Down value as on 1.4.65	324000

Q. 77. From the following particulars work out the admissible amount of depreciation and development rebate for the assessment year 1964-65 and 1965-66 and also the written down value of those assets as on 1.1.65.

New machinery costing Rs. 60000 installed on 1.1.63. and additions on 1.1.64 Rs. 40000. During the previous year 1963 the machinery was used double-shift for 150 days.

The accounting period of the firm is counted from 1st January every year ; and the rate of depreciation is 10%p.a.

Assessment year 1964-65

Ans.	Rs.
Actual cost of Machinery on 1.1.63	60000
Development rebate @ 20%	12000
Depreciation for single shift @ 10%	6000
Dep. for extra shift @ for $\frac{150}{360}$ year	1500
Written down value as on 1.1.64.	
	(60000 – 7500) 52500

Assessment year 1965-66

W. D. V. as on 1.1.64	52500
Addition on 1.1.64	40000
Development rebate @ 20% on addition	8000
Depreciation on Rs. (52500 + 40000) @	
	10% = 9250
W. D. V. as on 1.1.65. (92500 – 9250)	= 83250

Q. 78. A cotton mill Co. furnishes the following particulars ;

A factory building (1st class) was erected on 1. 4. 63. costing Rs 200000. New addition was made on 1.10.63. costing Rs. 60000

Another building was constructed for the residence of the employees getting monthly salary varying from Rs. 150 to Rs. 180 each, on 1. 4. 64 costing Rs. 160000. The previous year of the company is counted from 1st April

every year. The rates of depreciation on factory building is 5% and residential building is 2.5% p. a. Calculate the amount of normal depreciation and initial depreciation for the assessment years 1964-65 and 1965-66. Calculate also the written down value of the buildings

Assessment year 1964 65

Ans.	Rs.	Rs.
Actual cost of factory building on 1.4.63	.	200000
Depreciation @ 5% for one year	10000	
Addition to Factory building on 1.10.65		60000
Depreciation @ 5% for $\frac{1}{2}$ year	<u>1500</u>	
Total Depreciation allowable	11500	
W. D. V. of the factory building on 1.4.64	(260000 - 11500) = 248500	

Assessment year 1965-66

W. D. V. of the factory building on 1.4.64	<u>248500</u>
Depreciation allowed @ 5%	12425
Actual cost of residential building for the employees on 1.4.64.	<u>160000</u>
Initial depreciation on such building @ 20%	32000
Normal depreciation @ 2½%	<u>4000</u>
W. D. V. of factory building as on 1.4.65	(248500 - 12425) = 236075
W. D. V of residential building as on 1.4.65	(160000 - 4000) = 156000

Q. 79. A Jute mill Company furnished the following information regarding its machineries and building. Work out the amount of admissible development rebate and depreciation allowance for the assessment year 1965-66. The accounting year of the company ends on 31st December every year.

(1) A new machinery (No. 2) costing Rs. 1,50,000 was installed on 1.1.64.

The machinery was used for double-shift for 130 days and triple shift for 110 days in 1964

(ii) A machinery (No. 1) costing Rs. 200000 was installed on. 1.7.62. and new addition of Rs, 20000 to this machinery was made on 1.1.64.

(iii) A first class factory building erected on 1.1.58. costing Rs. 600000

Additions on 1.1.62 costing Rs. 200000

Additions on 1.1.64 costing Rs. 100000

Depreciation actually allowed up to and including the assessment year 1964-65 Rs. 150000

The rates of depreciation on building and machinery are 5% and 10% respectively.

Work out also the written down values of the building and machineries as on 1.1.65.

Ans.

Assets	Cost or W.D.V. on 1. 4. 64. Rs.	Development rebate @ 20% Rs.	Deprecia- tion Rs.	W.D.V. on 1.1.65 Rs.
New Machinery (No. 2) Costing Dep. @ 10% for single shift Dep. @ 5% for extra shifts ✕ for $\frac{(180+110)}{300}$ year	150000	30000	15000 6000	(150000 - 21000) = 129000
Machinery (No. 1) W.D.V. Value on 1.7.62 200000 Less dep. for $\frac{1}{3}$ year 10000 Value on 1.1.63. 190000 Less dep. for 1 year 19000 Addition on 1.1.64.	171000 20000	4000	17100 2000	(191000 - 19100) = 171900
Building W.D.V. Rs. (600000 + 200000 - 150000) Additions on 1.1.64.	650000 100000	34000	82500 5000	(750000 - 37500) = 712500
Total			77600	

Q. 80. From the following particulars calculate the amount of terminal depreciation admissible during the assessment Year 1965-66. The accounting period is counted from 1st April every year.

(i) A new machinery costing Rs. 80000 was installed on 1.4.56 and actual depreciation allowed upto and including the assessment year 1963-64 is Rs. 30000. The machine was discarded and sold for Rs. 28000 on 1.8.64.

(ii) The written down value of another machine was Rs. 120000 on 1.4.63. The machine was sold during the previous year 1964-65 for Rs. 86000.

(iii) A new residential building was erected on 1.4.61. for the residence of low paid (Less than Rs. 200 p.m.) employees at a cost of Rs. 240000. The building was acquired by the government for Rs. 170000 on 1.5.64.

Ans.

	Rs
(i) Actual cost of the new machinery on 1.4.56	„ 80000
Less depreciation allowed up to 31.3.63	„ 30000
W.D.V. as on 1.4.63	„ 50000
Less normal depreciation @ 10%	„ 5000
W.D.V. as on 1.4.64	„ 45000
Less Selling price of the machine	„ 28000
Terminal Depreciation admissible	Rs. 17000
(ii) W.D.V. of the machine on 1.4.63	„ 120000
Less normal depreciation @ 10%	„ 12000
W.D.V. of the machine as on 1.4.64	„ 108000
Less Selling price	„ 86000
Terminal Depreciation	„ 22000
(iii) Actual cost of the building as on 1.4.61	Rs. 240000
Initial depreciation admissible @ 20%	„ 48000
Normal depreciation @ 2½%	„ 6000
∴ W.D.V. as on 1.4.62. (240000-6000)=	234000
Less normal depreciation for the year @ 2½%	5850

∴ W.D.V. as on 1.4.63	228150
Less normal depreciation @ 2½%	5704
	<hr/>
W.D.V. (for the purpose of normal depreciation)	= 222446
Less initial depreciation	48000
W.D.V. (for the purpose of terminal depreciation)	= 174446
Less Price at which the building was acquired	170000
Terminal Depreciation admissible	Rs. 4446.

Q. 81. Sri Nirmal (industrialist) purchased on 1st April, 1960 new plant and machinery for Rs. 2,00,000. He installed the said plant and machinery in his own factory in December, 1960 and production Started form Jaunary 1961.

Compute the development rebate. Shri Nirmal will be entitled to in the assessment year 1961-62 on the assumption that the profit of the business for the year was Rs. 20000 (prior to deduction of development rebate) and also show necessary ledger accounts in the books of Shri Nirmal in this connection. [C.U.M. Com. 1962]

Ans. Shri Nirmal will be entitled to a development rebate on account of the new machinery installed before 1.4.61. @ 25% of the actual cost of the machinery as follows :—

$$\text{Dev. Rebate} = \text{Rs } 200000 \times \frac{25}{100} = \text{Rs. } 50000$$

As the profit before charging such development rebate is only Rs. 20000. he will be entitled to a development rebate of Rs. 20000 only and the balance (unabsorbed development rebate may be carried forward for the succeeding previous year up to 8 years next

Profit and Loss A/c of Shri Nirmal's business will be debited for Rs. 37500 and Reserve for Development Rebate will be credited by an equal amount. (necessary ledger A/c is required).

Profit and Loss A/c.

<i>Dr.</i>			<i>Cr.</i>
	Rs.		Rs.
To Development		By Sundries	20,000
Rebate Reserve		(balance of net profit	
A/c.	37500	before Charging Dev.	
(75% of Rs. 50000)		Rebate Reserve)	
		By Net Loss transferred	17,500
	<u>Rs. 37500</u>		<u>Rs. 37,500</u>

Development Rebate Reserve A/c.

			<i>Cr.</i>
	Rs.		Rs.
To Balance C/D	37500	By Profit and Loss	37500
		A/c.	
	<u>Rs. 37500</u>		<u>Rs. 37500</u>

CHAPTER VII

HEADS OF INCOME—CAPITAL GAINS

Q. 82. What is Capital Gains ?

Ans. As per Section 45 of the Act any profit or gain arising from the transfer of capital asset effected in the previous year shall be deemed to be the income of the previous year in which the transfer took place. It is immaterial whether the amount has actually been received or not.

~~Q.~~ **Q. 83. What is Capital Asset ?** ✓

Ans. The term 'Capital Asset' means property of any kind held by the assessee whether or not connected with his business or profession : it may be movable or immovable property but it does not include the following :

- (i) stock-in-trade and consumable stores held for the purpose of business or profession ;
- (ii) personal effects including wearing apparel, jewellery and furniture held for personal use by the assessee himself or any member of the family depending on him ;
- (iii) agricultural land in India ;
- (iv) 6½% Gold Bond issued by the Central Government.

Classification of Capital Gain

Capital Gains have been divided into two categories under the Act, viz. Short-term capital gains and other capital gains or Long-term capital gains.

The **short-term capital gain** is one which results from the disposal of the capital assets within the period of one year from the date of its acquisition. Capital gains which results from the disposal of capital assets after a period of more than one year from the date of acquisition is known as **long-term capital gains**. This division of capital gains

is made for the purpose of computation of tax and adjustment of losses arising on transfer of such capital assets.

Q. 84. What is Transfer of Capital Assets ?

Ans. As per Section 2 (47) of the Act, transfer in relation to capital asset includes—sale, exchange or relinquishment of the asset or extinguishment of any right therein or the compulsory acquisition thereof under any law. When Government compulsorily acquires any property of any person such acquisition constitutes a transfer. Again, when a person holding an agency right in any company extinguishes such right for any consideration, such act of extinguishment will constitute a transfer under the Act. When any partner relinquishes his right in partnership against any consideration, such act of relinquishment will be considered as a transfer of capital asset. When a shareholder on the liquidation of a company receives any money or other assets from the company, he shall be chargeable to income tax under the head 'Capital Gains' in respect of money so received or the market value of the other assets on the date of distribution as reduced by the amount assessed as dividend and also by the cost of the share in the company.

There are certain types of transactions which are not regarded as transfer and therefore not taxable, viz.

- (i) any distribution of capital assets on the total or partial partition of Hindu Undivided Family ;
- (ii) any distribution of capital assets on the dissolution of a firm, body of individuals or other association of persons ;
- (iii) any transfer of a capital asset under a gift or will or an irrevocable trust ;
- (iv) any transfer of a capital asset by company to its wholly owned Indian subsidiaries.

Q. 85. How Capital Gains are computed ?

Ans. The income chargeable under the head 'Capital Gains' shall be computed by deducting from the full value of

consideration received of or accruing as a result of the transfer capital asset the following amounts, viz.

- (i) expenditure incurred wholly or exclusively in connection with such transfer ;
- and (ii) cost of acquisition of the capital asset and cost of any improvement thereto.

Or in simple form we may say that Capital gain = Selling price – (cost of acquisition + Cost of improvements)

Cost of acquisition of capital asset

Under Section 49 of the Act, where the capital asset became the property of the assessee in any one of the following modes, the cost of acquisition of the asset shall be the cost for which the previous owner of the property acquired it as increased by the cost of any improvement of the asset incurred or borne by the previous owner or the assessee as the case may be.

(i) on any distribution on the total or partial partition of a H.U.F. ;

(ii) under a Gift or Will ;

(iii) (a) by succession ; inheritance or devolution ;

(b) on any distribution of assets on the dissolution of a firm, body of individuals or other association of persons ;

(c) on any distribution of assets on the liquidation of a company ;

(d) under a transfer to a revocable or an irrevocable trust ;

(e) under any such transfer as referred to in clause (iv) of Section 47.

As per Section 50 of the Act, when the capital asset is an asset in respect of which the assessee has obtained depreciation allowance in any previous year, the cost of acquisition shall be taken to be the written down value

as diminished by **terminal depreciation** or increased by **balancing charge**.

As per Section 51 where any capital asset was on any previous occasion the subject of negotiations for its transfer, any **advance or other money received and retained by the assessee** in respect of such negotiations shall be deducted from the cost for which the asset was acquired or from the written down value or fair market value, as the case may be, in computing the cost of acquisition.

Where it is not possible to ascertain the cost for which the previous owner acquired the property, cost of acquisition to the previous owner means **the fair market value on the date on which the capital asset became the property of the previous owner**.

Where the capital asset became the property of the assessee before 1.1.54 cost of acquisition, means the cost of acquisition of asset to the assessee or the fair market value of the asset on 1.1.54 at the option of the assessee.

Where the capital asset became the property of the assessee by any modes specified in Section 49 of the Act and the capital asset became the property of previous owner before 1.1.54, cost of acquisition means **the cost of capital asset to the previous owner or the fair market value of the asset on 1.1.54 at the option of the assessee**. In this case the fair market value on 1.1.54 should be the adjusted value as increased by balancing charge or diminished by terminal depreciation.

Where the capital asset became the property of the assessee on the distribution of the capital assets of a company on its liquidation and the assessee has been assessed to income-tax under the head 'Capital Gains' in respect of that asset under Section 46, cost of acquisition means **the fair market value on assets of the date of distribution**.

As per Section 52(1) of the Act. where the assessee is directly or indirectly connected with the transferee of the capital asset and the I.T.O has reason to believe that the transfer was effected with the object of avoiding tax liability. the full value of consideration for the transfer shall be taken to be fair market value of the asset on the date of transfer (subject to the approval of the Inspecting Assistant Commissioner).

As per section 52(2) of the Act, Capital Gains shall be computed with reference to the fair market value if in the opinion of the I.T.O. it exceeds the value as declared by the assessee as its full consideration of the assets by not less than 15% of the declared value (subject to the approval of the Inspecting Assistant Commissioner).

Cost of Improvement :

When the capital asset became the property of previous owner or the assessee before 1.1.54. and the fair market value of the asset has been taken by the assessee as its cost of acquisition, cost of improvement means all capital expenditure incurred in making addition or alteration to the capital asset on or after that date by the previous owner or the assessee.

Cost of improvement also means all capital expenditure incurred by the assessee and by the previous owner in respect of the asset if the asset became the property of the assessee by any of the modes specified in Section 49.

**Capital Gains Exempted from Tax and not to be
Included in the total income .**

As per Section 53 of the Act, Capital Gains as a result of transfer of one or more house property the income of which is chargeable under the head 'House Property' will not be included in the total income of the assessee, if

- (i) the total sale price does not exceed Rs. 25000/-.

and (ii) the total fair market value of all such house properties immediately before such transfer do not exceed Rs. 50,000/-

As per Section 54 of the Act, the Capital Gains that may arise from the transfer of a house chargeable under the head 'income from house property' shall not be included in the total income of the assessee provided

(i) the house was used for 2 years before the date of transfer as his residency or of his parents ;

and (ii) the assessee has within a year, before or after that date, purchased a house for his residence or constructed a house within 2 years from that date for his residence.

(iii) the capital gains do not exceed the cost of new house.

If the capital gain exceeds the cost of new house then such excess amount shall be chargeable to tax under this head.

(iv) If the new house is transferred within three years from the date of purchase or construction, the capital gain arising from such transfer as also the capital gain arising from the transfer will be chargeable to tax as the income of the previous year in which the transfer of such new tax takes place.

(v) any Capital Gain arising on the transfer of capital asset by a company to its wholly owned Indian subsidiaries, is not to be included in his total income,

Computation of Tax on Capital Gains

For the purpose of taxing capital gains, they have been divided into two categories : (i) Short-term Capital gain
(ii) Long-term Capital gains

Section 114. Method of computation in case assessee other than a Company.

Total tax payable on the total income which includes capital gains :—

(a) **Tax is payable on the income *minus* (Capital gains *plus* compensation) at rates applicable to a such total income.**

(b) **Tax is payable on the amount of short-term capital gains *plus* compensation)**

(c) (i) **No Tax is payable on the amount of long-term capital gains when such capital gains does not exceed Rs. 5000.**

(ii) **No Tax is payable on the amount of long-term capital gains when the total income including income from long term capital gains does not exceed Rs. 10000.**

(iii) **When the long-term capital gain exceeds Rs. 5000 and the total income exceeds Rs. 10000, tax is payable on the amount of such long term capital gain at a prescribed percentage of the average rate applicable on the total income *minus* (long-term capital gains *plus* compensation).**

But the minimum amount of tax payable on the long term capital gains cannot be less than 15% of the amount of such gain.

Taxes on long-term capital gain to be calculated as follows :—

(i) **Tax payable up to Rs, 5000 of such gain is to be taken as nil.**

(ii) **„ „ on the balance of capital gain over Rs. 5000 at the following rates**

(a) **75% of the average rate of tax applicable to total income *minus* (long-term capital gain *plus* compensation) in respect of capital gains on buildings, lands or any right in buidilngs.**

(b) **50% of the average rate of tax applicable to total income *minus* (long-term capital gain *plus* compensation) in respect of capital gain or assets other than lands and buildings.**

When capital gains arise from lands & buildings as well as from assets other than lands & buildings, the non-taxable portion of capital gain, (i.e., Rs. 5000) should be apportioned between the two groups proportionately.

Suppose that long-term capital gains have arisen from :—

- (i) Assets other than lands and buildings, Rs. 10000
- (ii) Lands & buildings „ 15000

Non taxable capital gain will be :—

- (i) On Assets other than lands & buildings

$$\text{Rs. } 5000 \times \frac{2}{5} = 2000$$

- (ii) On land and buildings Rs. $5000 \times \frac{3}{5} = 3000$

When the Assessee's income includes **compensation Tax** is payable on such compensation at rates applicable to the total income *minus* ($\frac{2}{5}$ of such compensation *plus* the amount of capital gains)

Compensation in all the above cases means compensation chargeable under the head "Income from business".

In certain cases the fair market value of the assets on the date of transfer of such assets exceeds the declared value. This understatement of the value is made just to evade tax.

When the fair market value, according to the opinion of the I. T. O., exceeds the declared value by 15% of the later, the capital gain is computed with reference to the fair market value.

Method of Computation of Tax in case of Company-Assessee.

Total amount of tax payable :—

- (a) Income-tax payable on the total income at rates applicable to such total income *minus* capital gain on sale of bonus share.

(b) Super-Tax is payable on the total income, at the rate applicable to the total income *minus* (the amount of capital gains other than short-term capital gains).

(c) Super-Tax is payable @ 15% on long term capital gains in respect of lands and buildings and 5% on the balance of long term capital gains excluding gains on lands and buildings.

(d) Income-tax is payable on the amount of capital gain on sale of bonus share, if any, @ 12% and no super-tax is payable on such capital gain.

Q. 86. Explain, "Loss from short term Capital assets"
[C. U. M. Com. 1964]

Losses arising from the Sale of (1) "Short term Capital Asset" and Long-Term Capital assets (Section 74)

Ans. *Losses* arising from the sale of any short-term Capital asset can be set off against profit from the sale of an other Capital assets (both long-term and short term) in the same assessment year. If such loss cannot be wholly set off in the said assessment year it shall be carried forward to the following assessment year and set off against the short-term capital gain for that assessment year. The process of carrying forward of this loss is limited to 8 succeeding assessment year.

Losses arising from the sale of any long-term capital assets can be set off against the profit from the sale of another long term capital asset in the same assessment year. If such loss can not be wholly set off in the said same assessment year it can be carried forward for the succeeding year and can be set off against the profit from the sale of long term capital asset of that assessment year and so on. The process of carrying forward of this loss is limited to four succeeding year only. Losses of this type below Rs. 5000 should be ignored in the case of assesseees other than company.

মূলধনী লাভ (Capital Gains)

মূলধনীলাভ সম্পর্কে কয়েকটি জ্ঞাতব্য বিষয়—

মূলধনী সম্পত্তির হস্তান্তরে যে লাভ হয় তাহাকে মূলধনী লাভ বলা হয়। যে বৎসরে এই হস্তান্তর ঘটে এই লাভ সেই বৎসরের আয়ের অন্তর্ভুক্ত হয়।

নিম্নলিখিত কয়েক প্রকার সম্পত্তি ব্যতিত যে সকল স্থাবর ও অস্থাবর সম্পত্তি করদাতার মালিকানায় থাকে তাহা সকলই মূলধনী সম্পত্তির তালিকাভুক্ত। এই সকল সম্পত্তি তাহার ব্যবসায় বা পেশার সঙ্গে সংশ্লিষ্ট না থাকিলেও উহাদের একই-রূপে গণ্য করা হইবে। যাহা মূলধনী সম্পত্তির তালিকাভুক্ত নয়—
(১) বিক্রির পণ্য (২) ব্যবহার যোগ্য মজুতপণ্য (৩) কাঁচামাল (৪) ব্যক্তিগত ব্যবহারের পণ্য (৫) কৃষিজমি (৬) ৬½% স্বর্ণবণ্ড।

মূলধনী লাভ দুই প্রকার :— (১) স্বল্পমেয়াদী মূলধনী লাভ (২) দীর্ঘ-মেয়াদী মূলধনী লাভ। সম্পত্তি ক্রয়ের এক বৎসরের মধ্যেই উহা বিক্রয় করিয়া যদি কিছু লাভ হয় তাহাকে স্বল্প মেয়াদী মূলধনী লাভ বলা হয়। আবার সম্পত্তি ক্রয়ের তারিখ হইতে এক বৎসরের অধিক সময় পরে উহা বিক্রয় করিয়া যে লাভ হয় তাহাকে দীর্ঘমেয়াদী মূলধনী লাভ বলা হয়।

মূলধনী সম্পত্তির হস্তান্তর কাহাকে বলা হয় :—

(১) সম্পত্তির বিক্রয় বা বিনিময়

(২) সম্পত্তির উপর অধিকার পরিত্যাগ

(৩) কোন আইনের বলে বাধ্যতামূলকভাবে সম্পত্তি দখল

এই সবকিছু-কেই সম্পত্তির হস্তান্তর বলা হয়।

যে সকল মূলধনীলাভ আর-করের আওতাভুক্ত হয় না তাহা নিম্নে প্রদত্ত হইল :—

(১) অবিভক্ত হিন্দু পরিবারের সম্পত্তি বিভাগের দরুন যদি কোন লাভ হয় তাহা,

(২) কোন অংশীদারী কারবার বিলোপের পরে উহার সম্পত্তি বণ্টনে যদি কোন লাভ হয় তাহা।

(৩) কোন কোম্পানী বিলোপের পরে উহার মূলধনী সম্পত্তি বণ্টনে যদি কিছু লাভ হয় তাহা

(৪) দান বা উইলের সাহায্যে মূলধনী সম্পত্তি হস্তান্তরে যে লাভ হয় তাহা

(৫) কোন হোল্ডিং কোম্পানী কর্তৃক তাহার সম্পূর্ণ অধীনস্থ ভারতীয় কোম্পানীকে মূলধনী সম্পত্তি হস্তান্তরে যে লাভ হয় তাহা

(৬) কোন কোম্পানীর বিলোপের পরে মূলধনী সম্পত্তি বন্টনে যে লাভ হয় তাহা

(৭) যে বাড়ীর আয় “বাড়ীভাড়ার আয়ের” তালিকাভুক্ত তাহা হস্তান্তরে যে লাভ হয় তাহাও আয়করের আওতা মুক্ত হয় যদি—

(ক) বাড়ীর বিক্রয় মূল্য ২৫০০০/- টাকার কম হয় অথবা

(খ) করদাতার মালিকানায় সকল বাড়ীর মোট গ্রায্য বাজার দর হস্তান্তরের ঠিক পূর্বে ৫০০০০/- টাকার কম হয়, অথবা

(গ) হস্তান্তরের ঠিক পূর্বে অন্ততঃ দুই বৎসর কাল করদাতা নিজের বা তাহার পিতামাতা কর্তৃক থাকিবার বাড়ী হিসাবে ব্যবহৃত হয় এবং করদাতা তাহার নিজের থাকিবার জ্ঞাত হস্তান্তরের এক বৎসরের মধ্যে একটি বাড়ী ক্রয় করে বা দুই-বৎসরের মধ্যে একটি নূতন বাড়ী তৈয়ার করে।

এই মূলধনী লাভ যদি নূতন বাড়ীটির ক্রয় বা তৈয়ারীর মূল্য হইতে অধিক হয় তাহা হইলে বাড়ীর ক্রয় বা তৈয়ারী খরচ হইতে মূলধনী লাভ যে পরিমাণ বেশী হইবে তাহা আয়করের আওতায় পড়িবে।

অবশ্য উপরের ৭ (গ) এর এই নূতন বাড়ী ক্রয় বা তৈয়ারীর তারিখ হইতে ৩ বৎসরের মধ্যে উহা বিক্রয় করিয়া দিলে এই বিক্রয়-জনিত যে মূলধনী লাভ হইবে এবং পূর্বের বাড়ী হস্তান্তরে যে মূলধনী লাভ হইয়াছিল এই উভয় লাভই তখন আয়করের আওতায় পড়িবে।

মূলধনী লাভের পরিমাপ স্থির করিতে হইলে পূর্বে মূলধনী সম্পত্তি দখলের মূল্য নির্ধারণ করিতে হয়। মূলধনী সম্পত্তি দখলের মূল্য (cost of acquisition of capital asset) = সম্পত্তির পূর্ববর্তী মালিকের ক্রয় মূল্য + করদাতা বা পূর্ববর্তী মালিক কর্তৃক সম্পত্তির উন্নয়ন ব্যয়। যে সকল ক্ষেত্রে সম্পত্তির পূর্ববর্তী মালিকের ক্রয় মূল্য নির্ধারণ সম্ভব না হয় সে ক্ষেত্রে গ্রায্য বাজার দরকেই সম্পত্তি দখলের মূল্য হিসাবে ধরা হয়।

কোন পূর্ববর্তী বৎসরে যদি সম্পত্তির মূল্যহ্রাস (depreciation) বাবদ করদাতাকে কিছুটা সুবিধা দেওয়া হয় তাহা হইলে এই সম্পত্তির হ্রাসপ্রাপ্ত মূল্যই

(written down value) সম্পত্তি দখলের মূল্য বলিয়া গণ্য হইবে। অবশ্য এই সম্পত্তির হ্রাসপ্রাপ্ত মূল্য হইতে সম্পত্তির অন্তিম মূল্যহ্রাস (Terminal Depreciation) বাদ দিয়া লইতে হয় অথবা মূল্যহ্রাসের সমপরিমাণ উদ্ধৃত অংশ (Balancing Charge) যোগ করিয়া লইতে হয়।

করদাতা বা তাহার পূর্বমালিক যদি ১৯৫৮-সালের ১লা জানুয়ারীর পূর্বে এই সম্পত্তি ক্রয় করিয়া থাকে তাহা হইলে সম্পত্তির ক্রয়মূল্য বা উপরোক্ত তারিখে সম্পত্তির গ্রায বাজার দরকেই সম্পত্তি দখলের মূল্য হিসাবে ধরা হয়।

উপরোক্ত তারিখের পরবর্তী কালে সম্পত্তির উন্নয়নবাবদ কিছু ব্যয় করিলে তাহাও এই মূল্যের সঙ্গে যোগ করিয়া সম্পত্তি দখলের মূল্য নির্ধারণ করিতে হয়।

যে ক্ষেত্রে করদাতা কর্তৃক সম্পত্তির বিধোষিত মূল্য বাজারদর হইতে বিধোষিত মূল্যের ১৫% এরও অধিক হয় সেই ক্ষেত্রে উচ্চ কর্তৃপক্ষের অনুমতি লাপেক্ষে সম্পত্তির ক্রয় মূল্য উহার ন্যায্য বাজার দরের হিসাবেই আয়কর অফিসারের দ্বারা নির্ধারিত হইয়া থাকে।

মূলধনী সম্পত্তির বিক্রয় মূল্য হইতে সম্পত্তি দখলের মূল্য এবং সম্পত্তি হস্তান্তরে প্রয়োজনীয় অগ্রাণু ব্যয় বাদ দিলে মূলধনী লাভ নির্ণয় করা যায়।

মূলধনী লাভের উপর কর নির্ধারণের পদ্ধতি

কোম্পানী ব্যতীতের অগ্রাণু করদাতার ক্ষেত্রে—

(১) মূলধনী লাভ হইতে ক্ষতিপূরণের লাভ বাদ দিয়া মোট আয়ের উপর কর (Income-Tax and Super-Tax) ধার্য হয়।

(২) স্বল্প মেয়াদী মূলধনী লাভের উপর করের (Income-Tax এবং Super-Tax)=মোট আয়—দীর্ঘ মেয়াদী আয় ও ক্ষতি পূরণের লাভ) ইহার উপর করের গড় হার

(৩) দীর্ঘ মেয়াদী মূলধনী লাভের উপর কোন কর প্রদেয় হয়নি যদি এই জাতীয় লাভের পরিমাণ ৫০০০ টাকার কম হয় অথবা মোট আয় (এই লাভ সহ) ১০০০০ টাকার কম হয়।

এই দুইটি সীমা অতিক্রম করিলেও দীর্ঘমেয়াদী মূলধনী লাভের প্রথম ৫০০০ টাকার কোন কর ধার্য হয় না।

৫০০০ টাকার অতিরিক্ত আয়ের উপর নিম্নোক্তভাবে করধার্য হয়

(১) (মোট আয়— দীর্ঘমেয়াদী মূলধনী লাভ ও ক্ষতি পূরণের লাভ) ইহার

উপর করের গড় হারের :—(ক) ৭৫% হারে বাড়ী বা জমি বিক্রয়ের লাভের উপর
কর ধার্য হয়

(খ) ৫০% হারে অগ্ৰাণ্ড সম্পত্তির বিক্রয়ের
লাভের উপর কর ধার্য হয়

কিন্তু দীর্ঘমেয়াদী লাভের উপর করের পরিমাণ ন্যূনপক্ষে এই জাতীয় লাভের
১৫% শতাংশ হইবেই।

কোম্পানীর ক্ষেত্রে—

(১) বোনাস শেয়ার বিক্রয়ের লাভের উপর আয়কর.....১২½ হারে

(২) বোনাস শেয়ার বিক্রয়ের লাভের উপর অতিরিক্ত আয়কর (Super-Tax) ধার্য হয় না।

(৩) কোম্পানীর মোট আয় হইতে বোনাস শেয়ার বিক্রয়ের লাভ বাদ দিয়া
বাহ্য হয় তাহারই উপর প্রযুক্ত হারে আয় কর ধার্য হয়

(৪) কোম্পানীর মোট আয় হইতে দীর্ঘমেয়াদী মূলধনী লাভ ও বোনাস
শেয়ার বিক্রয়ের লাভ বাদ দিয়া বাহ্য হয় তাহারই উপর প্রযুক্ত হারে অতিরিক্ত
আয় কর (Super-Tax) ধার্য হয়।

(৫) বাড়ী জমি ইত্যাদির বিক্রয় জনিত দীর্ঘমেয়াদী লাভের উপর (super-tax) এর হার ১৫%, এবং অগ্ৰাণ্ড দীর্ঘমেয়াদী মূলধনী লাভের উপর হার ৫%

Illustrations

Q. 87. Sri. K. L. Sadhukhan has a number of houses in Calcutta costing Rs. 3,25,000 in all . All of the houses were purchased before 1960. One of such houses costing Rs. 12500 was sold for Rs. 24000 on 5.8.64. Ascertain the tax liability of Sri Sadhukhan in respect of long-term capital gain.

Ans. Sale proceeds of the house	Rs. 24000
Less cost price of the house	Rs. <u>12500</u>
Capital gain	Rs. 11500

As the amount of sale price does not exceed Rs. 25000, the amount of capital gain resulting from the transfer of the house is not, there fore be liable to tax under Section 53,

Q. 88. Sri H. Mukherjee sold one of his two residential houses for Rs. 45000 on 5.5.64. The houses were constructed in the year 1959 at a cost of Rs. 41000, and the fair market value of the houses immediately before such transfer Rs. 49000. The cost of the house sold was Rs. 29000. Ascertain the tax liability of Sri Mukherjee in respect of long term capital gain.

Ans. As the aggregate fair market value of all Capital assets of Sri Mukherjee immediately before such transfer does not exceed Rs. 50000, there fore, the amount of capital gains ($45000 - 29000 = 16000$) will not be liable to tax.

Q. 89. Sri Raychoudhury sold a machine on 25.6.64 for Rs. 15850. The cost price of the machine purchased on 1.4.53 was Rs. 5800 but the fair market value of the machine on 1.1.54 was Rs. 11000. The income of Sri Ray chaudhury from other soures during the previous year 1964-65 was Rs. 16200. Find the amount of capital gain assessable under the Act.

Ans.	Sale proceeds of the machine	Rs. 15850
	Less the fair market value of the machine on 1.1.54	Rs. 11000
	Capital gains	4850

As this long term capital is below Rs. 5000, hence, such gain is not taxable (as per amended Section 114.)

Q. 90. Sri C. Talukdar sold a car on 1.6.64 for 12000. The Cost price of the car bought on 1.6 52 was Rs. 6000 but the fair market value of the car on 1.1 54 was Rs. 5000. The income of Sri Talukder from other sources during the previous year 1964 was Rs. 3900. Calculate the amount of assessable capital gain.

Ans.		Rs.
	Sale proceeds of the car	" 12000
	Less Cost of the car on 1.6 52	" 6000
	Long-term Capital gain	Rs. 6000

Here long term capital gain exceeds Rs 5000 but the total income including such gain is below Rs. 10000.

Hence, such capital gain is not taxable. (as per amended Section 114.)

Q. 91. Sri N. G. Datta, an officer of a mercantile firm, sold his residential house on 1.7.64. for Rs 95000. The cost price of the house bought on 1.10.54 was Rs. 60000. Sri Datta bought a new residential house on 1.2.65. at a price of Rs 55000. Ascertain the tax-liability of Sri Datta in respect of long term capital gain.

Ans.

Sale price of the house ...	Rs. 95000
Less cost price of the house	„ 60000
Capital gain	Rs. 35000

The cost price of the new residential house Rs. 55000) is greater than the amount of capital gain (Rs. 35000). Hence, such gain is not taxable (as per section 54).

Q. 92. Sri B. Das sold his residential house on 1.2.62 for for Rs. 1,55,000. The cost price of the house was Rs. 65000 on 1.7.55, Sri Das purchased a new house at a cost of Rs.75000 on 1.8.62.

Sri Das sold the new house for Rs. 92000 on 1.5.64. Ascertain the tax-libility of Sri Das for assessment years 1963-64 and 1965-66 in respect of capital gain,

Ans.

Assessment year 1963-64

Sale price of the house	Rs. 155000
Less Cost price of the house	„ 65000
Capital gain	Rs. 90000
Less the cost of new house	Rs. 75000
Amount of long term capital gain assessable	Rs. 15000

Assessment year 1965-66

	Sale price of the new house	Rs. 92000
Less	Cost of new house	Rs. 75000
	Capital gain	Rs. 17000

As the new house is sold away within three years of its purchase of the new house the amount of capital gain resulting from the sale of new house (Rs. 17000) *plus* the amount of exempted capital gain (Rs. 75000) resulting from the sale of the former house will be liable to tax in this assessment year. Therefore total amount of assessable

Capital gain is Rs. (75000+17000)=Rs. 92000.

Q. 93. Sri P. K. Bose is the owner of a manufacturing concern. On the 1st August 1964 he sold for Rs. 80000 some machinery which had cost him Rs. 62000. The written down value of the machinery was 51000. His income from all other sources was Rs. 42000. Ascertain the tax liability of Sri Bose in respect of Capital gain

Ans.		Rs.
	Sale price of the machinery	„ 80000
	Less W, D. V of the machinery	„ 51000
	Profit	„ 29000

The entire profit from the transfer of capital asset will not be charged under capital gain. Depreciation so far allowed in respect of the machinery is Rs. (62000—51000) or Rs. 11000. Capital gain in respect of the machinery will be Rs. (29000—11000) or Rs. 18000 and Rs. 11000 will be taken as 'Balancing charge' and is liable to tax under Section 41 (2).

Q. 94. Sri M. Guha is the proprietor of a factory. He sold a machinery for Rs. 72000 on 1.6.64, The machinery had cost him Rs. 56000 on 1.1.52. The fair market value of the machinery was Rs. 60000 on 1.1.54. Depreciation so far allowed in respect of the asset is Rs. 13000. Calculate the amount of assessable capital gain.

Ans.

Sale price	Rs. 72000
Less W. D. V. of the asset—	
Fair market value on 1.1.54	Rs. 60000
Less Depreciation allowed „	<u>13000</u>
	47000
Profit on Transfer	Rs. 25000

Out of Rs. 25000, the amount chargeable under capital gain will be Rs. (25000—13000) or Rs. 12000 and Rs. 13000 will be chargeable as Balancing Charge under Section 41(2)

Q. 95. Sri P. Ray is the owner of a workshop. He had to sell a few machines for Rs. 62000 on 1.5.63. The fair market value of the machines was Rs. 69000 on 1.1.54. Depreciation so far allowed in respect of the machines was Rs. 16000. Calculate the amount of assessable capital gain.

Ans.

Sale Proceeds	Rs. 62000
Less W. D, V. of the assets	
Fair market price.	Rs. 69000
less depreciation allowed „	<u>16000</u>
	53000
Profit	9000

In this case entire profit of Rs. 9000 resulting from the transfer of capital asset will be charged as balancing charge under section 41 (2) Therefore, capital gain in such case is nil.

CHAPTER VIII

HEADS OF INCOME—(INCOME FROM OTHER SOURCES)

As per Section 56 of the Act, all incomes which are not to be excluded from the total income shall be chargeable to income-tax under the head "Income from Other Sources" if they are not chargeable to income-tax under any other prescribed heads of income.

Q. 96. What are the incomes which are chargeable under the head Income from Other Sources ?

Ans. The following incomes shall be chargeable to Income Tax under this head, viz.

- (i) dividend ;
- (ii) income from machinery, plant or furniture belonged to the assessee and let on hire if the income is not chargeable to income tax under the head profits and gains of business or profession ;
- (iii) Where an assessee lets on hire any machinery, plant or furniture and building belonging to him and the letting of buildings is inseparable from the letting of the said machinery etc., The income from such letting shall be chargeable to income-tax under this head provided it is not chargeable under the head 'profits and gains of business or profession'.

There are other items of income which are chargeable to income-tax under this head viz.

- (i) income from royalty received by the authors of books or by the owners of the mines ;
- (ii) income from annuity created under a Will ;
- (iii) income from sub-letting of houses or property ;
- (iv) income from ground rent ;
- (v) income from fisheries, markets, ferries etc. ;
- (vi) income as Directors ;

(vii) income from agricultural land situated outside India ;

(viii) income from vacant plot of land not attached to any building ;

(ix) income from bank interest or interest other than interest on security ;

(x) income from fees, commission etc. received by a person from another person other than his employer.

Deductions Allowed :

As per Section 57 of the Act, income chargeable under this head shall be computed after making the following deductions :

(i) In case of dividend—any reasonable sum paid by way of commission or remuneration to a banker or to any other person for the purpose of realising such dividend on behalf of the assessee ;

(ii) In case of income from letting of machinsry, plant, etc. together with or without building—

(a) current repairing charges to machinery, plant, furniture etc., if any ;

(b) current repairing charges to the building, if any ;

(c) insurance premium paid for insurance of machinery, plant, building, etc. ;

(d) Depreciation of building, machinery, plant, furniture etc.

(iii) Any other expenditure laid out or expended wholly or exclusively for the purpose of making or earning such income. It excludes expenditure of capital nature.

Inadmissble Deductions :

As per Section 58 of the Act. the following amount shall not be deductible in computing the income chargeable this head, viz.,

In case of an assessee—

(i) any personai expenditure of the assessee ;

(ii) any **interest** chargeable under this act which is payable outside India on which tax has not been paid or deducted and in respect of which there is no person in India who may be treated as an agent. (Interest on a loan issued for public subscription before the 1st day of April 1938 shall, of course, be allowed).

(iii) **Any payment** which is chargeable under the head **salary** if it is payable outside India unless tax has been paid thereon or deducted therefrom at source.

In case of a Company—

1. Any expenditure which results directly or indirectly in the provision of any **remuneration or benefit or amenity**

(a) a Director ;

(b) a person who is substantially interested in the company ;

(c) any relative of Director or of such person.

2. Any expenditure in respect of any **assets** of the company used by

(a) a Director ;

(b) a person having substantial interest in the company ;

(c) a relative of a Director or of such person either wholly or partly for his own purpose or benefit ;

3. Any **allowance** in respect of any assets of the company used by such person either wholly or partly for his own purpose or benefit.

When, in the opinion of the I.T.O, any such of the expenditure or allowance on account of assets become **excessive or unreasonable with the legitimate needs** of the company and the benefit derived by or accruing to the company therefrom, such expenditure on allowance **will not be allowed**.

CHAPTER IX

METHOD OF ACCOUNTING

For the purpose of computing total income under the head "Profits and gains for business or profession" and Income from other sources an assessee is at liberty to follow any system of accounting provided it is regularly followed by the assessee. Generally the following methods of accounting are adopted by different assessee to compute their total income :

- (i) Cash System
- (ii) Mercantile System
- (iii) Mixed System.

Cash System—Under this system accounts are kept on cash basis. Only cash transactions are recorded in the books of accounts. Credit transactions are not recorded. Outstanding expenses or accrued income are not also taken into account. Profit and loss account, therefore, is not charged with the income or expenditure unless those are actually received or disbursed. Excess of actual receipt over actual disbursement is taken as the basis of computation of total income. Therefore, actual profit cannot be ascertained under this system.

Cash system may well be adopted by some professional man such as Doctor, Lawyer, Accountant where all expenditures and incomes are made on cash basis. In certain cases cash system is usually followed by some non-trading concern like club, school etc. where liquid fund of the concern is of great importance.

If, however, any small trader keep his accounts on cash basis, the difference in the opening and closing stock should also be taken into account.

Marcantile System—Under this system all the transactions (both cash and credit) are recorded. It includes all outstanding expenses and accrued incomes of the relevant accounting period. It excludes incomes received in advance or prepaid expenditure to ascertain the real profit or loss of the relevant period. Under this system provision will be made for bad debts and depreciation of assets used for earning the income.

The profit or loss ascertained may not be actually realised or paid in cash.

According to this system book entry will be made immediately a liability or claim is legally established even before any cash is actually paid or received in this respect. A deduction can also be claimed in respect of an established liability of the relevant accounting period although actual cash payment may be made at some future dates and the cost of discharging it may have to be calculated by an estimate.

In other words it may be said that accounts are kept under marcantile system on accrual basis. This system is suitably adopted by almost all businessmen.

Mixed System

It is not a system at all. It is the mixture of both cash and marcantile systems. Under this system one set of accounts is kept on cash basis and another set on accrual basis.

As the sales and purchases are effected mostly on both cash and credit, a few concerns keep their record of sales and purchases on marcantile method and other expenses and incomes on cash basis.

Section 145 (1) of Act provides that income chargeable under the head "Profits and gains of business or profession" or income from other sources shall be computed in accordance with the method of accounting regularly employed by the assessee ;

From this provision it is clear that the method of accounting to be followed is left to the choice of the assessee. He may follow any method of accounting but the method must be regularly followed by him.

The I.T.O. may, in certain cases, be satisfied about the correctness or completeness of the accounts of the assessee, but the method of accounts may be such that the income cannot be properly deduced therefrom, thus the computation shall be made upon such basis and in such manner as the I.T.O. may determine.

Under Section 145 (2), if in any case, the I.T.O. is not satisfied about the correctness or completeness of accounts of the assessee and where no method of accounts is regularly employed by the assessee, the I.T.O. may make an assessment in the manner as provided in Section 144. In such cases the I.T.O. may make best judgement assessment in the manner provided in Section 144.

The I.T.O., after taking into account all the relevant materials which he has gathered, shall make an assessment of the total income or loss to the best of his judgement and determine the sum payable by the assessee on the basis of such assessment.

The words "in the opinion of the Income Tax officer," thrust upon the I.T.O. a legal duty to examine the methods of accounts in every case. Those words do not signify any discretionary power of the I.T.O.

CHAPTER X

ASSESSMENT OF INDIVIDUAL

Tax is payable on the income of a person. As per Section 2 (31) person includes—

- (i) an individual,
- (ii) a Hindu undivided family.
- (iii) a Company
- (iv) a firm
- (v) an association of persons or a body of individuals
- (vi) a local authority
- (vii) an artificial judicial person.

An individual is liable to pay tax on his total income. He may earn income not only as an individual but also as any one of the following positions :—

- (a) as a member of a Hindu Undivided Family
- (b) as a member of an Unregistered Firm
- (c) as a member of a Registered Firm
- (d) as a member of an Association of person
- (e) as a shareholder of a company.

Hindu Undivided Family : The income of a H.U.F. is assessed and taxed as a separate unit. After such taxation the balance of such income of the H.U.F. is distributed amongst the members. Therefore, when an individual member receives his share of income as member of the H.U.F. such an income will not be liable to tax.

It will not be liable to tax even if the family income is not sufficient to become taxable.

Personal earnings of any members of H.U.F. is, of course, taxable in the hands of the individual.

Only the male member of a H.U.F. is entitled to share the income of H.U.F. provided it is governed by Mitakshara Law. Therefore, the income of a sole surviving male member of such family is assessable in his hand as individual.

Un-registered Firm : The income of an unregistered firm is assessable as a separate unit. An individual in the capacity of a partner of an registered firm is not liable to tax for his share of income of the firm, although such income will be included in his total income for the purpose of rate. In certain cases the income of the unregistered firm may be lower than the taxable minimum. In these cases the share of income of the individual member will, however, be taxable in his hand.

Registered Firm : A registered firm is liable to pay tax as a separate unit only when its total income exceeds Rs. 40000. A partner is also liable to be assessed for his share of income of the registered firm but he is, however, entitled to (i) a rebate of income tax on the amount of his share of income-tax paid by the firm ;

(ii) a rebate of super-tax on the amount of the proportionate income-tax paid by the firm on its income from sources other than business.

Association of Persons : The income of an association is assessable as a separate unit. There are individuals who are not liable to pay tax for their share of income of such association of persons, though such income will be included in the total income of the individuals. If the income of such association of person is lower than the taxable limit, the share of income of such association of persons will be then liable to tax in the hand of the individual.

Company : An individual may be a share-holder of a company and may earn dividend on his shares. The income of the company is liable to be assessed on the basis of its own income. Tax-paid by the company is the discharge of its own tax-liability. Therefore, share holder is also liable to pay tax on dividend it earns from the company. His income as dividend on his shares is taxable in his hands even though a portion of such profit of the company is derived from non taxable income of the company.

Q. 97. Sri S. Ghose, an officer of a private firm, draws a monthly salary of Rs. 1600 per month. The other particulars regarding his income during the year ended 31st March 1965, are stated below. Compute the 'total income' and 'exempted income' of Sri Ghose for the assessment year 1965-66.

1. His contribution to a recognised Provident Fund is equal to 12½% of his salary and his employer's contribution is equal to that.

2. He is provided with a free-furnished house in Calcutta.

3. The cost of education of his son at Sibpur amounting to Rs. 150 is entirely borne by the employer.

4. He is provided with a car entirely for his official duties and the annual expenses and depreciation of car amounts to Rs. 1200.

5. He paid Rs. 500 as his life insurance premium on a policy of Rs. 45000.

6. The wages of a 'Mali' amounting to Rs. 60 p. m. for the proper upkeep of his house is paid by his employer.

7. He received full year's interest on 5% Govt. Securities of the value of Rs. 40000 but bank charged 2% as cost for collection of interest on securities.

8. His account is also credited with a bank interest of Rs. 450.

9. He had a house in Patna. The house was let out at a monthly rent of Rs. 200. The house was constructed in 1963. He paid Rs. 360 as municipal tax for the house. The other expenses in connection with his house property are (a) fire insurance premium Rs. 100, (b) Ground rent 70 (c) Interest on loan on mortgage of such house Rs. 150.

10. He received Rs. 240 (grossed up) as dividend on a share of company and royalty of books Rs. 600.

Ans.

**Total income of Sri Ghose for the assessment year.
1964-65**

1. Income form Salary

Salary @ Rs. 1600 p.m.	Rs. 19,200	
Cost of son's education borne by the employer @ 150 p.m.	„ 1,800	
Value of free-furnished house (12½% of Rs. 21000)	„ 2,625	
Employer's contribution to R.P.F. (in excess of 10% of salary)	„ 480	
	<u>Rs. 24,105</u>	

2. Income for interest on securities

5% of Rs. 40000 =	Rs. 2000	
Less Cost of collection 2%	„ 40	
	<u>1,960</u>	

3. Income from house Property

Annual value of the house	Rs. 2400	
Less 50% of municipal tax	„ 180	
	<u>2,220</u>	
Less Statutory deduction	„ 600	
	„ 1620	
Less Repairing charge (⅙ of the above value)	Rs. 270	
Fire insurance premium	„ 100	
Ground rent	„ 70	
Interest on Mortgage	„ 150	
	<u>Rs. 590</u>	1,030

4. Income from other sources

Dividend on share	Rs. 240	
Royalty of book	„ 600	
Interest on bank-deposit	„ 450	1,290
	<u>Rs. 28,385</u>	

Total income form all sources

Rs. 28,385

Notes :—(i) Value of car provided for official duties shall be taken as (nil)

(ii) Wages of 'Mali' paid by employer for the proper up-keep of the house shall not be included in his total income.

(iii) Value of free furnished house = $12\frac{1}{2}\%$ of (19200 + 1800)

(iv) As the house was constructed in 1963, statutory deduction is allowed to the extent of 50% of the Annual Value as reduced by municipal tax or Rs. 600. whichever is less.

Rebate

On Provident fund Contribution	Rs. 2400
(employer's own)	
On Life insurance premium	<u> 450 </u>
	Rs 2850

CHAPTER XI

EXEMPTIONS

There are certain types of income which are totally exempt from tax as per Sections 10 to 13 of the Income-Tax Act, 1961. These are not to be included in the total income of the assessee. These are placed under the head "Exemption". Income-Tax Act allows certain categories of income to be exempted from income-tax and super-tax but are to be included in the total income for the purpose of rate. These types of incomes are placed under "Rebates and Reliefs". These types of incomes are included in the "total income" of the assessee but the assessee is allowed relief and rebates at an average rate applicable to the above "total income".

Any income falling within any of the following clauses of Sections shall not be included in the total income.

(1) **Agricultural Income** :—Any rent or revenue derived from land used for agricultural process or income derived from such land by performance of agricultural process.

(2) **Income received as a member of a Hindu undivided family** :—Any sum received by an individual as a member of a Hindu undivided family, where such sum has been paid *out of the income of the family*, or, in the case of any impartible estate, where such sum has been paid *out of the income of the estate belonging to the family* ;

(3) **Casual and Non-Recurring Income** :—Any receipts which are of a casual and non-recurring nature, unless they are—

(i) capital gains, chargeable under the provision of Section 45 ; or

(ii) receipts arising from business or the exercise of a profession or occupation ; or

(iii) receipts by way of addition to the remuneration of an employee ;

(4) **Income of a non-Resident from Interest on certain bonds :—**(i) In the case of a non-resident, any income from interest on, or from premium on the redemption of any bonds issued by the Central Government under a loan agreement between the Central Government and the International Bank for Reconstruction and Development or the Development Loan Fund of the United States of America or (ii) Income from interest or premium on bonds issued by any industrial undertaking or financial corporation in India under a loan agreement with the said Bank or Fund, as the case may be, which is guaranteed by the Central Government.

(5) **Value of Travel concession :—**Subject to such conditions as the Central Government may prescribe, the value of any travel concession or assistance received by or due to any person, being a citizen of India, from his employer for himself, his wife and children, in connection with his proceeding on leave to *his home-district in India* ;

(6) **Certain Incomes of an individual who is not a citizen of India (Foreign Diplomats and thier staff) :—**(i) Subject to such conditions as the Central Governnmet may prescribe, *passage moneys* or the *value of any free or concessional passage* received by or due to such individual from his employer for himself, his wife and children, in connection with his proceeding on home leave out of India ;

(ii) The remuneration received by him as ambassador, high commissioner, envoy, minister, *charge d' affaires* commissioner, counsellor or the secretary, adviser or attache of an embassy, high commission, legation or commission of a *foreign State*, for service in such capacity ;

(iii) The remuneration received by him as a *consul de carriere*, whether called a consul-general, consul, vice-consul, consular agent, pro-consul or by any other name, of a foreign State for service in such capacity ;

(iv) The remuneration received by him as a trade commissioner or other *official representative* in India of the Government of a foreign State (not holding office as such in an honorary capacity), if the remuneration of the corresponding officials, if any, of the India Government enjoys a similar exemption in that country ;

(v) The remuneration received by him as a member of the staff of any of the officials referred to in clause (ii), or clause (iv), if the member—

(a) is a subject of the country represented ;

(b) is not engaged in any business or profession or employment in India otherwise than as a member of such staff ; and further, where the individual is a member of the staff of any official referred to in clause (iv), if the country represented has made corresponding provisions for similar exemptions in the case of members of the staff of the corresponding officials of the Government of India.

(vi) The remuneration received by him as an employee of a foreign enterprise for services rendered by him during his stay in India, provided the following conditions are fulfilled—

(a) The foreign enterprise is not engaged in any trade or business in India ;

(b) His stay in India does not exceed in the aggregate of a period of ninety days in such previous year ; and

(c) Such remuneration is not liable to be deducted from the income of the employer chargeable under this Act ;

(vii) The remuneration due to or received by him chargeable under the head "Salaries" for services rendered as a technician in the employment of the Government or of a local authority or of any corporation set up under any

special law or in any business carried on in India, if he was not resident in any of the four financial years immediately preceding the financial year in which he arrived in India to the extent mentioned below—

(a) Where his contract of service was approved by the Central Government before the commencement of his service—

(i) In the case of a technician who has special knowledge and experience in industrial or business management techniques, such remuneration due to or received by him during the period of six months commencing from the date of his arrival in India ;

(ii) In the case of any other technician, such remuneration due to or received by him during the 36 months commencing from the date of his arrival in India, and where any such person continues to remain in employment in India after the expiry of the 36 months aforesaid and the tax on his income chargeable under the head “Salaries” is paid by the employer to the Central Government, the tax so paid by the employer for a period not exceeding 24 months following the expiry of the 36 months aforesaid ;

(b) In any other case, not being the case of a technician who has special knowledge and experience in industrial or business management techniques, such remuneration due to or received by him for the period of 365 days in all commencing from the date of his arrival in India.

Explanation :—“Technician” means a person having specialised knowledge and experience in—

(i) constructional or manufacturing operations, or in mining or in the generation or distribution of electricity or any other form of power, or

(ii) industrial or business management techniques ; who is employed in India in a capacity in which such specialised knowledge and experience are actually utilised ;

(viii) *Any income chargeable under the head "Salaries"* received by or due to any such individual being a non-resident as remuneration for services rendered in connection with his employment *on a foreign ship* where his total stay in India does not exceed in the aggregate a period of ninety days in the previous year ;

(7) Allowances and perquisites of a citizen for foreign services :—Any allowances or perquisites paid or allowed as such out-side India by the Government to a citizen of India for rendering service outside India ;

(8) Income in connection with any Co-operative Technical Assistance Programmes :—In the case of an individual who is assigned to duties in India in connection with any co-operative technical assistance programmes and projects in accordance with an agreement entered into by the Central Government and the Government of a foreign State.

(a) The remuneration received by him directly or indirectly from the Government of that foreign State for such duties, and

(b) Any other income of such individual which accrues or arises outside India, and is not deemed to accrue or arise in India, in respect of which such individual is required to pay any income or social security tax to the Government of that foreign State ;

(9) Income of any member of the family of any individual engaged in executing Co-operative Technical Assistance Programme :—The income of any member of the family of any such individual as referred to in clause (8) *accompanying him to India*, which accrues or arises outside India, and is not deemed to accrue or arise in India, in respect of which such member is required to pay any income or social security tax to the Government of that foreign State ;

(10) Death-cum-retirement Gratuity :—Any death-cum-retirement gratuity received under the revised Pension Rules of the Central Government or under any similar scheme of a State Government, a local authority or a corporation established by a Central, State or Provincial Act or any payment of retiring gratuity received after the first day of June 1953 under the New Pension Code applicable to the members of the Defence Services ; or any other gratuity not exceeding one-half month's salary for each year of completed service, calculated on the basis of the average salary for the three years immediately preceding the year in which the gratuity is paid, subject to a maximum of Rs. 24,000 or 15 months' salary so calculated, whichever is less ;

(11) Payment from a Statutory Provident fund :—Any payment from a provident fund to which the Provident Funds Act, 1925 applies ;

(12) The accumulated balance of Recognised Provident Fund due—

The accumulated balance due and becoming payable to an employee participating in a recognised provident fund, to the extent provided in Rule 8 of Part A of the Fourth Schedule :

(13) The payment from an Approved Super-annuation Fund—

Any payment from an approved super-annuation fund made on the death of a beneficiary or in lieu of or in commutation of an annuity, or by way of refund of contributions on the death of a beneficiary :

(14) Special Allowance or Benefit—

Any special allowance or benefit, not being in the nature of an entertainment allowance or other perquisite within the meaning of clause (2) of section 17, specifically granted to meet expenses wholly, necessarily and exclusively incurred in the performance of the duties of an office or

employment of profit, to the extent to which such expenses are actually incurred for that purpose :

(15) Payment on Annuity Certificates and Interest on certain Govt. Securities etc.

(i) Monthly payment on the 15 Year Annuity Certificates issued by or under the authority of the Central Government or such other annuity certificates issued by or under the authority of that Government.

(ii) Interest on Treasury Savings Deposit Certificates Post Office Cash Certificates, Post Office National Savings Certificates, National Plan Certificates, Twelve Year National Plan Savings Certificates and such other certificates issued by the Central Government and Interest on Deposits in Post Office Savings Banks.

(iii) Interest on securities held by the Issue Department of the Central Bank of Ceylon constituted under the Ceylon Monetary Law Act. 1949.

(iv) Interest payable—

(a) by Government or a local authority on moneys borrowed by it from sources outside India ;

(b) by an industrial undertaking in India on moneys borrowed by it under a loan agreement entered into with any such financial institution in a foreign country as may be approved in this behalf by the Central Government by general or special order.

(c) by an industrial undertaking in India on any moneys borrowed or debt incurred by it in a foreign country in respect of the purchase outside India of raw materials or capital plant and machinery, in any case where the loan or debt is approved by the Central Government, having regard to its terms generally and in particular to the terms of its repayment ;

(16) Scholarship for education—

Scholarships, granted to meet cost of education ;

(17) Daily Allowance of M. P., M. L. A. & M. L. C. etc.—Any daily allowance received by any person by reason of his membership of Parliament or of any State Legislature or of any Committee thereof ;

(18) Gallantry awards—Any payment made, whether in cash or in kind, by the Central Government or any State Government in pursuance of gallantry awards instituted or approved by the Central Government ;

(19) Privy purse—Any ammount received by the Ruler of an Indian State as privy purse uuder article 291 of the Constitution ;

(20) The Income of a Local Authority—The income of a local authority which is chargeable under the head "Interest on securities", "Income from house property", "Capital gains" or "Income from other sources" or from a trade or busniness carried on by it which accrues or arises from the supply of a commodity or service within its own jurisdictional area ;

(21) The Income of a Scientific Research Association—Any income of a scientific research associatian for the time being approved for the purpose of clause (ii) of sub-section (1) of Section 35 which is applied solely to the purposes of that association :

(22) The Income of a University or other educational Institution—Any income of a University or other educational institution, existing solely for educational purposes and not for purposes of profit ;

(23) The Income of an Association on Institution for games and sports—Any income of an association or institution established in India having as its object the control, supervision, regulation or encouragement in India of the games of cricket. hockey, foot-ball, tennis or such other games or sports as the Central Govenment may specify in this behalf from time to time by notification in Official Gazette ;

Provided that—

(ii) the association or institution applies its income, or accumulates it for application, solely to the objects for which it is established ;

(ii) no part of the income of the association or institution is distributed in any manner to its members except as grants to any association or institution affiliated to it . and

(iii) the association or institution is, for the time being, approved for the purpose of this clause by the Central Government by general or special order ;

(24) **The Income of a registered Trade union**—Any income chargeable under the head “Interest on securities”. “Income from house property” and “Income from other sources” of a registered union within the meaning of the Indian Trade Unions Act. 1926, formed primarily for the purpose of regulating the relation between workmen and employers or between workmen and workmen ;

(25) **Interest on securities or Capital gains on the transfer of such securities held by any statutory Provident Fund**—(i) Interest on securities which are held by. or are the property of, any provident fund to which the Provident Funds Act. 1925, applies, and any capital gains of the fund arising from the sale, exchange or transfer of such securities.

(ii) Any income received by the trustees on behalf of a recognised provident fund ;

(iii) Any income received by the trustees on behalf of an approved super-annuation fund ;

(26) **Income of a member of a Schedule Tribe** :—In the case of a member of a Scheduled Tribe who is not in the service of Government.

Any income which accrues or arises to him.

(a) from any source in the area or Union Territories afore-said, or

(b) by way of dividend or interest on securities.

As per Section 11. of the Act Income from Property held for charitable or religious purposes, is not to be included in the total income.

Subject to the provisions of sections 60 to 63, the following income shall not be included in the total income of the previous year of the person in receipt of the income—

(a) Income derived from property held under trust wholly for charitable or religious purposes, to the extent to which such income is applied to such purposes in India ; and any accumulated income not in excess of twenty-five per cent. of the income from the property or rupees ten thousand, whichever is higher ;

(b) Income derived from property held under trust in part only for such purposes, to the extent to which such income is applied to such purposes in India , and any income set apart not in excess of twenty-five per cent of the income from the property held under trust in part ;

(c) Income from property held under trust—

(i) created on or after the 1st day of April, 1952, for a charitable purpose which tends to promote international welfare in which India is interested, to the extent to which such income is applied to such purposes outside India, and

(ii) for charitable or religious purposes, created before the 1st day of April, 1952, to the extent to which such income is applied to such purposes outside India ;

Provided that the Board, by general or special order, has directed in either case that it shall not be included in the total income of the person in receipt of such income.

Explanation.—For the purpose of clauses (a) and (b), in computing twenty-five per cent. of the income from any such property as is referred to in the said clauses for any previous year, the income from such property for the year immediately preceding the previous year may be adopted, if that income is higher than the income for the previous year.

Income of trusts or institutions from voluntary contributions is not to be included in the total income.

As per Section 13, (1) any income of a trust for charitable or religious purposes or of a charitable or religious institution derived from voluntary contributions and applicable solely to charitable or religious purposes shall not be included in the total income of the trustees or the institution, as the case may be.

Income from any property held under trust for private religious purposes and the income of a trust for charitable purpose or Charitable Institution.

As per Section 13, nothing contained in Section 11 shall operate so as to exclude from the total income of the previous year of the person in receipt thereof—

(a) Any part of the income from the property held under a trust for private religious purposes which does not enure for the benefit of the public ;

(b) In the case of a trust for charitable purposes or a charitable institution created or established after the commencement of this Act, any income thereof.

(i) if the trust or institution is created or established for the benefit of any particular religious community or caste; or

(ii) if under the terms of the trust or the rules governing the institution any part of such income enures directly or indirectly for the benefit of the author of the trust or the founder of the institution or any relative of such author or founder, and, where the author of the trust or the founder of the institution is a Hindu undivided family, any part of such income enures directly or indirectly for the benefit of any member of the Hindu undivided family or any relative of any member of the family.

Explanation 1.—For the purposes of sections 11 and 12 and this section “trust” includes any other legal obligation and for the purposes of this section “relative” also includes a lineal descendant of a brother or sister.

Explanation 2.—A trust or institution created or established for the benefit of Scheduled Castes, backward classes, Scheduled Tribes or women and children shall not be deemed to be a trust or institution created or established for the benefit of a religious community or caste within the meaning of sub-clause (i) of clause (b) of this section.

The following income shall be chargeable to income-tax head "Salaries"—

(a) any salary due from an employer or a former employer to an assessee in the previous year, whether paid or not ;

(b) any salary paid or allowed to him in the previous year by or on behalf of an employer or a former employer though not due or before it became due to him ;

(c) any arrears of salary paid or allowed to him in the previous year by or on behalf of an employer or a former employer, if not charged to income-tax for any earlier previous year.

Explanation.—For the removal of doubts, it is hereby declared that where any salary paid in advance included in the total income of any person for any previous year it shall not be included again in the total income of the person when the salary becomes due.

The income chargeable under the head "Salaries" shall be computed after making the following deductions, namely :—

(i) any amount not exceeding five hundred rupees, expended by the assessee on the purchase of books and other publications necessary for the purpose of his duties ;

(ii) in respect of any allowance in the nature of an entertainment allowance specifically granted to the assessee by his employer—

(a) in the case of an assessee who is in receipt of a salary from the Government, a sum equal to one-fifth of his

salary (exclusive of any allowance, benefit or other perquisite) or five thousand rupees, whichever is less and;

(b) in the case of any other assessee who is in receipt of such entertainment allowance and has been continuously in receipt of such entertainment allowance regularly from his present employer from a date before the 1st day of April, 1955, the amount of such entertainment allowance regularly received by the assessee from his present employer in any previous year ending before the 1st day of April, 1955, or a sum equal to one-fifth of his salary (exclusive of any allowance, benefit or other perquisite) or seven thousand five hundred rupees, whichever is the least ;

(iii) any amount paid by the assessee in respect of taxes on professions, trades, callings or employments levied under any State or Provincial Act ;

[iv) where the assessee is not in receipt of a conveyance allowance, whether as such or as part of his salary, and owns a conveyance which is used for the purposes of his employment, such sum as the Income-tax Officer may estimate in respect of such not as representing the expenditure incurred by him in its maintenance and as representing its normal wear and tear ;

Incomes Forming Part of Total Income on Which No Income-Tax Is Payable

Income of co-operative societies.—

As per Section 81, Income-tax shall not be payable by a co-operative society—

(i) in respect of the profits and gains of business carried on by it, if it is—

(a) a society engaged in carrying on the business of banking or providing credit facilities to its members ; or

(b) a society engaged in a cottage industry ; or

(c) a society engaged in the marketing of the agricultural produce of its members ; or

(d) a society engaged in the purchase of agricultural implements, seeds, livestock or other articles intended for agriculture for the purpose of supplying them to its members ; or

(e) a society engaged in the processing without the aid of power of the agricultural produce of its members , or

(f) a primary society engaged in supplying milk raised by its members to a federal milk co-operative society

Provided that, in the case of a co-operative society which is also engaged in activities other than those mentioned in this clause, nothing contained herein shall apply to that part of its profits and gains as is attributable to such activities and as exceeds fifteen thousand rupees ;

(ii) in respect of *so much of the Profits and gains* of business carried on by it *as does not exceed fifteen thousand* rupees, if it is a co-operative society other than a co-operative society referred to in clause (i) ;

(iii) in respect of any *interest and dividends derived from its investments* with any other co-operative society ;

(iv) in respect of any income derived from the *letting of godowns or warehouses* for storage, processing or facilitating the marketing of commodities ;

(v) in respect of *any interest on securities* chargeable under Section 18 or any *income from property* chargeable under Section 22, where the total income of the co-operative society *does not exceed twenty thousand rupees* and the society is *not a housing society or an urban consumer's society* or a society carrying on *transport business* or a society engaged in the performance of any *manufacturing operations* with the *aid of power* ;

provided that nothing contained in this section shall apply to a co-operative society carrying on insurance

business in respect of the profits and gains of that business computed in accordance with Section 44.

Explanation.—For the purposes of this section, “an urban consumer’s co-operative society” means a society for the benefit of the consumers within the limits of a municipal corporation, municipality, municipal committee, notified area committee, town area or cantonment.

Dividends from co-operative society.

As per Section 82 Income-tax shall not be payable by an assessee, who is a *member of a co-operative society* in respect of any dividends received by him from the society,

Income of marketing society.

As per Section 83 Income-tax shall not be payable by an assessee, which is an authority constituted under any law for the time being in force for the marketing of commodities, in respect of any *income derived from the letting of godowns, warehouses* for storage, processing or facilitating the marketing of commodities.

Income of newly established industrial undertakings or hotels.

As per Section 84 save as otherwise hereinafter provided, Income-tax shall not be payable by an assessee on so much of the profits or gains derived from any industrial undertaking or hotel to which this section applies as *do not exceed six per cent. per annum on the capital employed in the undertaking or hotel*, computed in the prescribed manner.

(2) This section *applies to any industrial undertaking which fulfils all the following conditions, namely ;—*

(i) it is not formed by the splitting up. or the reconstruction of, a business already in existence ;

(ii) it is not formed by the transfer to a new business of a building, machinery or plant previously used for any purpose ;

(iii) it has begun to manufacture or produce articles in any part of India at any time within a period of eighteen years from the 1st day of April, 1948, or such further period as the Central Government may, by notification in the Official Gazette specify with reference to any particular industrial undertaking :

(iv) it employs ten or more workers in a manufacturing process carried on with the aid of power, or employs twenty or more workers in a manufacturing process carried on without the aid of power.

(3) This section *applies to any hotel* which—

(a) starts functioning on or after the first day of April, 1961, and is not formed by the splitting up, or the reconstruction of, business already in existence or by the transfer to a new business of building, machinery or plant previously used for any purpose :

(b) is owned and run by a company registered in India with a paid-up capital of not less than five hundred thousand rupees ;

(c) is run in premises which are owned by the company ;

(d) has such number and types of guest rooms and provides such amenities as may be prescribed, having regard to the population and the tourist importance of the place in the hotel is located ; and

(e) is for the time being approved for the purpose of this sub-section by the Central Government.

Dividend from new industrial undertaking or hotel.

As per Section 85. Subject to any rules that may be made by the Board in this behalf, income-tax shall not be payable by a shareholder in respect of so much of *any dividend* paid or deemed to be paid to him by an industrial undertaking or a hotel to which Section 84 applies as is

attributable to that part of the profits or gains on which income-tax is not payable under Section 84.

Other incomes forming part of the total income but on which no income-tax is payable.

As per Section 86 Income-tax shall not be payable by an assessee in respect of the following—

(i) the interest due on *any security of the Central Government* issued or *declared to be income-tax free* ;

(ii) the interest due on any *security of a State Government* issued *income-tax free*, the income-tax whereon is payable by the State Government ;

(iii) if the assessee is a *partner of an unregistered firm*, any portion of the assessee's share in the profits and gains of the firm computed in the manner laid down in Section 67 on which income-tax has already been paid by the firm ;

(iv) if the assessee is a partner of a registered firm, the amount which represents the *difference between—*

(a) the assessee's share in the total income of the firm, and

(b) his share in such total income as reduced by the Income-tax, if any, payable by the firm, the shares in either case being computed in the manner laid down in Section 67 : and

(v) if the assessee is a *member of an association of persons*, or a body of individuals other than a Hindu undivided family, a company or a firm, *any portion of the amount* which he is entitled to receive from the association or body on which Income-tax has already been paid by the association or body.

CHAPTER XII

REBATES AND RELIEFS

A—Rebate of Income-tax

Rebate on life insurance premia, annuities and contributions to provident fund, ect.

As per Section 87 (1) subject to the provisions of this section, the assessee shall be entitled to a deduction, from the amount of income-tax on his total income with which he is chargeable for any assessment year, of an amount equal to the income-tax calculated *at the average rate of income-tax* on the following sums, namely :—

(a) where the assessee is an individual, any sums paid in the previous year by the assessee out of his income chargeable to tax—

(i) to effect or to keep in force *an insurance on the life of the assessee or on the life of the wife or husband of the assessee* ; or

(ii) to effect or to keep in force a *contract for a deferred annuity* on the life of the assessee or on the life of the wife or husband of the assessee : or

(iii) as a *contribution to any provident fund* to which the Provident Funds Act. 1925 applies ;

(b) where the assessee is a **Hindu undivided family**, any sums paid in the previous year by the assessee out of its income chargeable to tax, to effect or to keep in force *an insurance on the life of any male member of the family or of the wife of any such member* ;

(c) *any sum deducted* in the previous year from the salary payable by or on behalf of the Government to any individual, being a sum deducted in accordance with the conditions of his service, *for the purpose of securing to him*

a deferred annuity or making provision for his wife or children, in so far the sum so deducted does not exceed one-fifth of the salary ;

(d) if the assessee is an employee participating in a recognised provident fund, his own contributions to his individual account in the fund in the previous year, to the extent provided in rule 7 of part A of the Fourth Schedule ;

(e) if the assessee is an employee participating in an approved super-annuation fund, any sum paid in the previous year by him by way of contribution towards the super-annuation fund.

(f) where the assessee is an individual, any sums deposited in the previous year by the assessee out of his income chargeable to tax, in a ten-year account or a fifteen year account under the Post Office Savings Bank (Cumulative Time Deposits) Rules. 1959, as amended from time to time.

(2) The provisions of clauses (a) and (b) of sub-section (1) shall apply only to so much of any premium or other payment made on a policy other than a contract for a deferred annuity as is not in excess of ten per cent. of the actual capital sum assured.

Explanation—In calculating any such capital sum, no account shall be taken—

(i) of the value of any premiums agreed to be returned or

(ii) of any benefit by way of bonus or otherwise over and above the sum actually assured, which is to be or may be received under the policy by any person.

(3) the aggregate of the sums in respect of which a deduction of Income-tax is allowed under sub-section (1) shall not exceed—

(i) in the case of an individual being an author, playwright, artist, musician or actor, such percentage of his total income or such amount as may be prescribed ;

(ii) in the case of any other individual twenty-five per cent. of the total income or [ten thousand rupees], whichever is less ;

(iii) in the case of a Hindu undivided family, twenty-five per cent. of its total income or twenty thousand rupees, whichever is less.

Donations for charitable purposes.

As per section 88 (1) subject to the provisions of this sections, assessee shall be entitled to a deduction from the amount of Income-tax on his total income with which he is chargeable for any assessment year of an amount equal to the Income-tax calculated at the average rate of Income-tax on any sums paid by him in the previous year—

(i) as donations to the National Defence Fund set up by the Central Government ; or

(ii) as donations to any other fund or any institution to which this section applies ; or

(iii) as donations to Government or to any local authority made on or after the 1st April, 1960, to be utilised for any charitable purpose.

(2) No deduction shall be made under sub-section (1) if the aggregate of the sums paid as aforesaid by the assessee is less than two hundred and fifty rupees.

(3) No deduction shall be made under sub-section (1) in respect of any sums paid in excess of seven and a half per cent. of the assessee's total income as reduced by any portion thereof on which income-tax is not payable by any amount in respect of which a deduction of Income-tax has been granted, or one hundred and fifty thousand rupees, whichever is less : This limit has been

raised to 10% or Rs, 2,00,000 since the assessment year 1963-64.

(4) The amount of Income-tax deductible under this section, together with the amount of super-tax deductible under section 100 shall not in any case exceed half the aggregate of the donations in respect of which the deduction is allowed under this section.

(5) This section applies to donations to any institution or fund referred to in clause (ii) of sub-section (1) only if it is established in India for a charitable purpose and if it fulfils the following condition, namely :—

(i) if the institution or fund derives any income, such income would not be liable to inclusion in its total income under the provisions of Sections 11 and 12 or clause (22) of Section 10 ;

(ii) the instrument under which the institution or fund is constituted does not, or the rules governing the institution or the fund do not, contain any provision for the transfer or application at any time of the whole or any part of the income or assets of the institution or fund for any purpose other than a charitable purpose :

(iii) the institution or fund is not expressed to be for the benefit of any particular religious community or caste ;

(iv) the institution or fund maintains regular accounts of its receipts and expenditure ; and

(v) the institution or fund is either constituted as a public charitable trust or is registered under the Societies Registration Act, 1860, or under any law corresponding to that Act in force in any part of India or under Section 25 of the Companies Act, 1956, or is a university established by law, or is any other educational institution recognised by the Government or by a university established by law, or

affiliated to any university established by law or is an institution financed wholly or in part by the Government or a local authority,

Relief of Income-Tax

Relief when salary, interest on securities ect., is paid in arrears or in advance.

(1) As per Section 89 where, by reason of any portion of an assessee's salary being *paid in arrears or in advance* or by reason of his having *received in any one financial year salary for more than twelve months* or a payment which under the provisions of clause (3) of Section 17 is a *profit in lieu of salary*, his income is assessed at a rate higher than that at which it would otherwise have been assessed, the Commissioner may, on an application made in this behalf by the assessee, grant such relief as he considers appropriate.

(2) Where, by reason of any portion of income from *interest on securities being received in arrears*, an assessee's total income is assessed at a rate higher than that at which it would otherwise have been assessed, the Commissioner may, on an application made in this behalf by the assessee, grant such relief as he considers appropriate.

·INCOME-TAX AND SURCHARGE ON INCOME-TAX

In the case of every individual or Hindu Undivided Family or Unregistered Firm or other Association of Persons or body of Individual, whether incorporated or not, or every artificial Judicial Person referred to in sub-clause (vii) of clause (31) of Section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies—

Rates of Income-tax

- | | |
|--|--|
| (1) where the total income does not exceed Rs. 5,000 | 5% of the total income |
| (2) where the total income exceeds Rs. 5,000 but does not exceed Rs. 10,000 | Rs. 250 plus 10% of the amount by which the total income exceeds Rs. 5,000 |
| (3) where the total income exceeds Rs. 10,000 but does not exceed Rs. 15,000 | Rs. 750 plus 15% of the amount by which the total income exceeds Rs. 10,000 |
| (4) where the total income exceeds Rs. 15,000 but does not exceed Rs. 20,000 | Rs. 1500 plus 20% of the amount by which the total income exceeds Rs. 15,000 |
| (5) where the total income exceeds Rs. 20,000 but does not exceed Rs. 25,000 | Rs. 2,500 plus 30% of the amount by which the total income exceeds Rs. 20,000 |
| (6) where the total income exceeds Rs. 25,000 but does not exceed Rs. 30,000 | Rs. 4,000 plus 40% of the amount by which the total income exceeds Rs. 25,000 |
| (7) where the total income exceeds Rs. 30,000 but does not exceed Rs. 50,000 | Rs. 6,000 plus 50% of the amount by which the total income exceeds Rs. 30,000 |
| (8) where the total income exceeds Rs. 50,000 but does not exceed Rs. 70,000 | Rs. 16,000 plus 60% of the amount by which the total income exceeds Rs. 50,000 |
| (9) where the total income exceeds Rs. 70,000 | Rs. 28,000 plus 60% of the amount by which the total income exceeds Rs. 70,000 |

Provided that for the purposes of this paragraph, in the case of a person, not being a non-resident—

(i) no income-tax shall be payable on a total income not exceeding the following limit namely :—

(a) Rs. 6000 in the case of every Hindu undivided family which as at the end of the previous year satisfies either of the following two conditions, namely :—

(i) that it has atleast two members entitled to claim partition who are not less than eighteen years of age ; or

(ii) that it has at least two members entitled to claim partition who are not lineally descended one from the other and who are not lineally descended from any other living member of the family ;

(b) Rs. 3000 in every other case ;

(ii) where such person is an individual or a Hindu undivided family, income-tax computed at the rate hereinbefore specified shall be reduced by so much of the amount specified hereunder, as does not exceed the amount of income-tax so computed :—

(a) Rs. 100 in the case of an unmarried individual :

(b) Rs. 175 in the case of married individual who has no child wholly or mainly dependent on him or a Hindu undivided family which has no minor coparcener :

(c) Rs. 195 in the case of a married individual who has one child wholly or mainly dependent on him or a Hindu undivided family which has one minor coparcener wholly or mainly supported from the income of such family :

(d) Rs. 215 in the case of a married individual who has more than one child wholly or mainly dependent on Hindu undivided family which has more than one minor coparcener wholly or mainly supported from the income of such family :

(iii) where the total income is twenty thousand rupees or less, the income-tax payable shall not exceed forty per cent, of the amount by which the total income exceeds the limit specified in sub-clause (a) or, as the case may be, sub-clause (b) of clause (i) of this proviso.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge for purposes of the Union, which shall be equal to the aggregate of the sums computed as hereunder :—

(a) where

(i) in the case of an individual or a Hindu undivided family, the amount of unearned income, not being income by way of interest on any security of the Central or State Government or income received in respect of units from the Unit Trust of India under the Unit Trust of India Act, 1963 (52 of 1963) included in the total income, or

(ii) in any other case, the amount of unearned income included in the total income exceeds Rs. 15,000.

a sum calculated on the difference between the amount of Income-tax computed in respect of the income referred to in sub-clause (i) or as the case may be, sub-clauses (ii) if such income had been the total income and the amount of Income-tax computed in respect of an income of Rs. 15,000 if it had been the total income, at the following rate, namely :—

(1) where the amount of 20% of the amount of such the difference does not difference.
exceeds Rs. 1450).

(2) where the amount of Rs. 2,900 plus 25% of the the difference exceeds Rs. amount by which the difference aforesaid exceeds Rs. 14500.
14500.

(b) where—

(i) in the case of an individual or Hindu undivided family, the earned income and income by interest on any security of the Central or State Government and income received in respect of units from the Unit Trust of India under the Unit Trust of India Act, 1963 (52 of 1963) included in the total income, or

(ii) in any other case, the earned income included in the total income, exceeds Rs. 1 lakh.

a sum calculated on the amount of the difference between the income-tax computed in respect of the income referred to in sub-clause (i) or, as the case may be, sub-clause (ii), if such income had been the total income and the Income-tax computed in respect of a total income of Rs. 1 lakh, at the following rate, namely :—

(1) where the amount of 5% of the amount of such the difference does not difference.
exceed Rs. 65,000.

(2) where the amount of Rs. 3250 plus 10% of the difference exceeds Rs. 65,000 amount by which the diff-
but does not exceed Rs. erence aforesaid exceeds
1,30,000 Rs. 65,000.

(3) where the amount of Rs. 9750 plus 15% of the the difference exceeds Rs. difference aforesaid exceeds
1,30,000. Rs. 1,30,000.

APPENDIX

C. U. B. Com. 1963 (Honours)

Q. 1. The following is the profit and loss account of Shri Ray for the year ending 31st March, 1961.

	Rs.		Rs.
To Rates & Taxes...	450	By gross profit	14623
„ Establishment...	1750	„ Bank interest	577
„ Rent	600		
„ ✓ Household expenses	1450		
„ Discount & allowance	250		
„ ✓ Income-Tax ...	480		
„ Advertisement ...	200		
„ Postage, Stationary			
and Printing	800		
„ Fire Insurance ...	150		
„ ✓ Gifts and Presents	160		
„ ✓ Charity and donation	1150		
„ ✓ Purchase of Plant			
& Machinery	1500		
(not installed)			
„ Repaires to furniture	50		
„ Interest on Loan	1000		
„ ✓ Life Insurance Pre-	600		
mium			
„ ✓ Reserve for doubtful			
debts	700		
„ ✓ Interest on Capital	250		
„ ✓ Net Profit.	3660		
	Rs. 15200		Rs. 15200

You are required to ascertain the taxable income of Shri Ray.

Ans.

Total income of Shri Ray for the assessment year 1965-66

1. Income from profits and gains of business or profession.

Net profit as per profit and loss A/c.....		Rs. 3660
Less Bank interest 		„ 577
Net income from business 		„ 3083
Add <u>Expenses Inadmissible</u>		
Household Expense...	1450	
Income-Tax 	480	
Gift and presents.....	160	
Charity and donation	1150	
Purchase of Plant		
& Machinery	1500	
Life Insurance Premium	600	
Reserve for doubtful debts	700	
Interest on Capital	250	„ 6290
		„ 9373
Add Income from other sources. ...		
Bank interest.....		„ 577 ✓
Taxable income of Sri Ray		Rs, 9950

Notes : 1. Life Insurance Premium is not a business expense

2. Purchase of Plant and Machinery is a capital expenditure.

3. Bank interest will not be included under the head "Income from profits and gains of business and profession" It is assumed that such interest is credited on his personal deposit with bank.

2. Define any three of the following terms :—

(a) Agricultural income.

(b) Non-Resident

(c) Divident Income

(d) Capital Asset

(e) An assessee

- Ans. (a) See Ans. to Q. No. 4 Page 7.
 (b) See Ans. to Q. No 16. page 27.
 (c) See Ans. to Q. No. 11. page 12.
 (d) See Ans. to Q. No. 83. page 187
 (e) See Ans. to Q. No. 9. page 11.

Q. 3. Shri Anil is the owner of a building at Rajpur which is mortgaged to Shri Bimal. The net municipal assessment of the building is Rs 8100. He incurs the following expenses during the year.

- (a) Repairs—Rs 1000/-
 (b) Fire Insurance—Rs. 275/-
 (c) Interest on Mortgage—Rs. 500/-
 (d) Collection Charge—Rs. 600/-
 (e) Municipal Tax—Rs. 900/-

The house was constructed in 1949. Rent amounting to Rs. 8500/- was received for the year ending 31st March, 1961. Find out the net assessable income of Shri Anil.

Ans. Income for house property

Annual rental value	...	...	Rs. 8500
Less Municipal Tax	...	...	„ 900
(Full Tax, as the house was constructed before 1950).			
			<hr/>
			„ 7600
Less Repairing Charges ($\frac{1}{8}$ of the above value, irrespective of the actual amount of expenditure)		1266'67	
Fire Insurance		275'00	
Interest on Mortgage		500'00	
Collection Charge		510'00	
		<hr/>	
(Maximum 6% of the Rental Value)			„ 2551'67
Net income from house property			Rs. 5048'33

Q. 4. (a) What are the incomes which do not form part of the total income for the purpose of assessment.

(b) What are the incomes which form part of total income but on which no income-tax is payable ?

Ans. (a) See Chapter ... "Exemption" Page 215

(b) See ... "Rebates and Reliefs" page 232

Q. 5. Shri Nirmal, an employee of a Company, who is married shows the following particulars of his income for the year ended 31st March 1961 :—

(a) salary Rs. 1200/- per month. (b) The following amounts have been paid by the employer Company in addition to salary :—

(i) Rent-free unfurnished house at Rs. 75/- per month,

(ii) Electric bills for Rs. 500/- (Personal Consumption).

(iii) Insurance premium on assessee's life at Rs. 100/- per month.

(iv) Tution fee of assessee's sons amounting to Rs. 1000/-

(v) Car allowance amounting to Rs. 1200/- (actual expenditure on Car Rs. 500/-)

(vi) Entertainmet allowance amounting to Rs. 1500/- (regularly paid by employer company since 1951)

Find out the taxable income and compute income-tax liability (assume average rate of tax at 25%).

Ans. Total income of Sri Nirmal from salary

	Rs.	p.
1. Salary @ Rs. 1200 p.m.	14400	00
2. Insurance premium on his life, (paid by employer)	1200	00
3. Electric bill (paid by employer)	500	00
4. Tution fee for his son („)	1000	00
5. Car Allowance „	1200	
Less actual expenditure	<u>500</u>	700
6. Entertainment allowance ...		Nil
(Since regularly received since 1951)		

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7. Value of Rent free unfurnished house @ Rs. 75 p.m. (the amount is less than 10% of the salary income)	900'00
Total	Rs. 18700'00
Less Annuity deposit @ 5%	885'00
Amount on which tax is payable	Rs. 16815'00
Assuming average rate of tax at 25%, tax payable by	
Sri Nirmal Rs. 16815 $\times \frac{25}{100}$ = Rs. 4203'75	
Less Rebate on life Ins.	
premium = 1200 $\times \frac{25}{100}$ =	300 00
Net Tax payable	Rs. 3903'75 .

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Q. 1. Define the following terms .—

- ✓(a) Resident
- ✓(b) Short term capital asset
- (c) Bonafide annual value of property
- (d) Pervious year

Or

(a) How a partnership firm is registered for the purpose of income-tax ?

(b) A, B, C are partners, with equal shares. in a registered firm. The profit and loss account shows a net profit of Rs. 60,000 after debiting Rs. 5,000 for interest paid to A. Rs. 4000 for salary paid to B and Rs. 3000 for shop rent paid to C. What is the share of income of each partner ?

Ans. (a) See Ans to Q. No. 16. page 27.

(b) See Ans to Q. No. 83. page 187.

(c) See Ans. page 99.

(d) See Ans to Q. No. 13 page 22.

Ans. (a) Write provisions of Section 184 and Section 185 (1) of the Income Tax Act. 1961.

Ans. (b) Profit as per profit and loss A/c..... Rs. 60000

Add Inadmissible expenses

Interest paid to partner	5000	
Salary paid to partner	4000	<u>9000</u>
Total income of the firm.		Rs. 69000

As the share of each partner is equal,
each partner's share will be $\text{Rs. } 69000 \div 3 = \text{Rs. } 23000$.
(shop rent is an admissible expense).

Q. 2, (a) Define Perquisite in relation to salary income.

(b) What deductions are allowed in the computation of income under the head 'Salaries'.

(c) What income will you include under profits in lieu of salary,

Or

Sri Sainen is an employee of a limited company getting a salary of Rs. 2000 per month and rent free quarters. He gets free lunch during the office hours (estimated value of this amenity Rs. 1200). The annual premium of the assurance of his own life in Rs. 5000/- of which he pays Rs. 3000/- out of his salary and company pays Rs. 2000/-. Two gardeners are paid (Rs. 1800) by the company to maintain the compound of the house in which Sainen lives free of charge. He receives entertainment allowance from the company at Rs. 6000 per annum since 1960. What would be the total income of Sri Sainen, assuming that the year of the income is 1962-63.

Ans. (a) See Ans. to Q. No. 31. page 50,

(b) See Ans. to Q. No. 33 page 56.

(c) See Ans. to Q. No. 31. page 52.

Or

Ans.

Salary @ Rs. 2000.....	Rs. 24000
Insurance Premium (paid by Employer)	„ 2000
Value of free lunch.....	„ 1200
Value of rent free quarters.....	„ 2720
(10% of salary—assuming to be unfurnished)	
Entertainment Allowance.....	Nil
(Since received before 1955)	
Wages of gardener.....	Nil
Total income	<u>Rs. 29920</u>

Q. 3. From the following profit and loss Account of Sri Kamal Ray for the year ended 31st December, 1962, Find out his taxable income from business

	Rs.		Rs.
To Office expenses.....	5720	By Gross profit	28635
„ General Charges...	2640	„ Interest on Govt. Securities	1660
„ Interest on Bank Loan	480	„ Discount	365
„ Interest on Capital	1580	„ Bad debts	440
„ Reserved for Bad Debts	835	recovered	
„ Bad Debts	1000	„ Profit on sale of long term investments	750
„ Audit fee	300	„ Sundry receipt	350
„ Rent	2030		
„ Income-tax	1760		
„ Charity Donotion	485		
„ Law Charges	370		
„ Compensation paid to retrenched employee	1500		
„ Extension to building	1500		
„ Net Profit	<u>12000</u>		
	<u>Rs. 32200</u>		<u>Rs. 32200</u>

In computing the income, the following facts should be taken into consideration :—

(a) In the item of rent Rs. 600 is included in respect of the rent of the office building which belong to the proprietor himself.

(b) In the amount of salaries, Rs. 320 is included in respect of employer's contribution to provident fund which is recognised.

(c) General expenses include Rs. 350 in respect of new furniture purchased during the year.

(d) Amount of depreciation allowable according to rules worked out at Rs. 1275.

(e) Law charges include a sum of Rs. 100. being penalty imposed by custom authority.

Ans.

Total income of Sri Kamal Roy

Income from business.

✓ Net profit as per P & L A/c.....	Rs. 12000
Less Income from interest on securities	„ 1660 ✓
	<u>10340</u>
Less „ „ capital gain	<u>750</u>
(As it is less than Rs. 5,000)	9590
Add Inadmissible Expenses	
Int. on Capital	Rs. 1580 ✓
Reserve for Bad debt ... „	835 ✓
Income Tax.....	„ 1760 ✓
Charity and Donation „	485 ✓
Extention of building „	1500 ✓
Law Charges „	100 ✓
Rent paid to proprietor „	600 ✓
Cost of new furniture „	350 -
	<u>7210</u>
	Rs. 16800.
Less Depreciation allowance	„ 1275 -
	„ 15525
Add Income from interest on securities	„ 1660
Total income from all sources	Rs. 17185

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Q. 1. (i) State in brief the incomes which do not form a part of the assessee's total income.

(ii) Under what circumstances a particular item of income is earned or received by a certain person but it is includible in the total income of another person ?

Or

Define the following terms.

- (a) Development rebate
- (b) Capital asset
- (c) Dividend

Ans.

(i) See Chapter "Exemptions" is page No.

(ii) Write provisions of Section 60 to 64 of the Income-Tax Act 1961.

Or

- (a) See Ans. to Q. No. 74. page 169.
- (b) See Ans. to Q. No. 83. page 187.
- (c) See Ans. to Q. No. 11. page 12.

Q. 2. (a) Shri Rampada, an employee of New Tea Co Ltd. shows the following particulars of his income earned in the financial year ended 31st March 1963.

	Rs.
(i) Salary (including employee's contribution of Rs. 1800 to a recognised provident fund	12000
(ii) Dearness allowance	6000
(iii) Employer's contribution to the provident fund	2800
(iv) Interest on the accumulated balance in the provident fund calculated at 9 per cent	3600
(v) Car allowance	1200
(vi) Club bill of the assessee paid by the employer	2000

(vii) Entertainment allowance (the association was not in receipt of the entertainment allowance before 1st April 1955. 400

(viii) Life Insurance premium on the life of Shri Rampada was paid by the employee. 3000

Find out taxable income of Shri Rampada under salary.

(b) What deductions are allowed in the computation of income under head 'salaries'

Or

(a) Enumerate the deduction which have to be made from the gross annual value so as to give the income assessable under the head 'Income from house property'.

(b) Shri Santosh constructed a house in 1945 and in the year ended 31st March 1962 he occupied it for his own residence. The fair rent at which the house may be let out is Rs. 6000 per annum. For the year, the assessable income of Shri Santosh, other than that in respect of his residential property is Rs. 33000. The expenses in connection with the property were as under.

	Rs.
Municipal Tax	400
Repairs	300
Ground rent	100
Interest on Mortgage of the property	500

How will the total income of Shri Santosh be computed ?

Ans.

(a) Total income of Sri Ramapada

1. Salary	.....	Rs. 12000
2. Dearness allowance	.....	„ 6000
3. Employer's Contribution to Provident Fund	„	1600
(in excess of 10% of salary)		

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4. Int. on accumulated balance of P.F. (@ in excess of 6%=3%)	„ 1200
5. Car allowance	„ 1200
6. Club bills paid by employer	„ 2000
7. Life Ins. Premium paid by employer	„ 3000
8. Entertainment allowance (Since he was in receipt of it before 1955)	Nil

Total income Rs. 27000

(b) See Ans. to 8 No. 33. page 56.

Or

(a) See Important points in connection with House property. page 96..

(b) Income from House property occupied by Sri Santosh himself.

Annual value	Rs. 6000
Less full municipal tax	„ 400
	<u>5600</u>
Less Statutory deductions	„ 1800
	<u>Rs. 3800</u>

As Rs. 3800 exceeds 10% of the total income of Shri Santosh, the annual value shall be taken at 10% of the total income, which is calculated as follows :—

$$A. V. = \frac{10}{100} \times \frac{12}{11} \times (33000 - 100 - 500) = \text{Rs. } 3534.55$$

Less	Repairing charge	Rs. 589.09
	($\frac{1}{8}$ of the above value	100.00
	Ground Rent	<u>500.00</u>
	Interest on mortgage	1189.09
		<u>Rs. 2345.46</u>
Add income from other sources		33000.00
Total income		<u>Rs. 35345.46</u>

8. Shri A and B are equal partners in a registered firm, whose profit and loss account for the year ended 31st December 1963 is given below.

To Salaries, wages & bonus	Rs. 4000	By Gross Profit	Rs. 37000
General Expenses	6000	„ Bank interest	1000 ⁷ .
Sales Tax	1500	„ Bad debt recovered	
Rent, Rates & Taxes	1300	(Disallowed in earlier years	
Development	1500	assessment	600
Rebate Reserve			
Depreciation Reserve on old plant & Machinery	1200		
Bad Debt written off	300		
Bad Debt reserve	800		
Advertising	2000		
Subscription & Charity	1000		
Loss on sale of Motor Car	2000		
Interest on Capital			
A	1500		
B	1500		
	<u>3000</u>		
Partner's salaries			
A	1200		
B	1800		
	<u>3000</u>		
Commission to B	1000		
Net Profit			
A	5000		
B	5000		
	<u>10000</u>		
	Rs. 38600		<u>Rs. 38600</u>

Notes (i) General expenses include Rs. 200 being legal charges for drawing up a new partnership deed.

(ii) Advertising represents Rs. 700 being cost of permanent sign board and Rs. 1300 being cost of insertions in trade Journals.

(iii) The motor-car is entirely used for private purposes of the partners.

(iv) Subscription and charity include

(a) Rs. 200 to Trade Association

(b) Rs. 500 for refugees from East Pakistan

(c) Rs. 300 donation to a school.

(v) (a) The written down value of old plant and machinery as on 1st April 1962 comes to Rs. 5000.

(b) On 31st December 1962 a new plant and machinery amounting to Rs. 10000 was purchased, unstalled and put into use.

(c) Depreciation at 10 per cent is allowable on all plant & Machinery, Compute that assessable income of the firm and show the allocation between the partners.

Total Income of Firm

Ans.		Rs.
	Net profit as per profit and Loss A/c	„ 10,000
	Less bad debt recovered but disallowed	„ 600
	in earlier years assessment so taxed	„ 9,400
	<u>Add Expenses Inadmissible</u>	Rs.
	Bad debt Reserve	800
	Subscription and charity	800
	(Rs. 1000-200)	
	Interest on Capital	3,000
	Partners Salaries	3,000
	Commission to partner	1,000
	Legal Expenses for drawing	200
	a partnership deed	
	Loss on sale of Motor car	2,000
	Cost of permanent signboard	700
	Excess depreciation on old	700
	machinery	„ 12,200
		<u>21,600</u>

<i>Less</i> Development rebate	Rs. 2000	
less charged to P/L A/c	1200	
	<hr/>	
	800	
and Depreciation of new machinery	1000	<u>1800</u>
Total Income		Rs. 19,800

Notes ;—(1) Dev. Rebates 20% of the actual cost if installed after 1.4.61.

2. Subscription to Trade Association is an admissible expense.
3. Cost of insertions in trade Journal is an admissible expense.

B. Com (Pass) Income-tax 1963

Q. 7. (a) In income-tax Act what is meant by the term Assessee ? Mention the different classess assessees.

(b) A person has a net income of Rs. 3500 from dividend on company share. He has no other source of income. Is he an assessee. Give reasons for your answer.

Ans. (a) See Ans to Q. No. 9 (page 10)

(b) He is considered as an assessee as Section 2 (7) provides that "Assessee" includes every person in respect of whom any proceeding under the Act has been taken for the assessment of the amount of refund due to him. The income of the person in this case is within taxable limit but tax has been deducted at source at the maximum rate by the company. So he can claim refund of tax so deducted. So proceeding under the Act has to be taken for assessment of the amount of refund due to him.

Q. 8. (a) What are the differnt heads of income under the income tax Act ? Add a very short note on each item.

(b) The income of an investment company is almost exclusively derived from dividends on its investment in company shares. Should such income be treated as income from business. Give reasons for your answer.

Ans. (a) See Ans. to Q. No. 28 (page 47)

(b) It should be treated as income from business and not to be treated as income from other sources. Investments are the permanent assets of such company. It is the particular trade of the company. Income from dividend is the only source of income. Selection of "Investments" is an important function of such business.

Q. 9. An assessee who is a manufacturer. Calculate the value of his work in progress only on the total cost of materials and wages involve. An income-tax officer objects to this and contends that a proportionate amount of overhead charges should also be included in the cost. What is your opinion in the matter? Give reasons of your answer.

Ans. It is a question relating to the method of accounting. The value of a closing works in progress may inflate the profit of the previous year but the profit of the succeeding previous year will be reduced by the same extent because the same value of closing works-in-progress of a previous will appear an opening works in-progress in the next previous year. As per Section 145 an assessee is entitled to adopt any method of accounting provided such method is regularly employed. The I.T.O. may, of course rightly ask the assessee to modify the method in this case because value of works-in-progress should include proportionate overhead expenses otherwise Trading Account will fail to reflect the true profit. And such method must be employed in the valuation of both opening and closing works in-progress and must be regularly employed.

Q. 10. In the year ended March 31, 1963 an unmarried individual was employed in the office and drew a salary of Rs. 550 per month. He lived in his own house of which the municipal value was Rs 1200, He also had a gross in-

come of Rs.1100. from dividends in company shares held by him. Calculate his total income for purposes of incometax.

See Ans to Q No. 49. (page 109,

C. U. B. Com. (Pass) 1964

6. According to the Income-tax Act, define (a) Agricultural Income, (b) Person, (c) Perquisite, (d) Profit in lieu of Salary.

Ans. (a) See Ans to Q No 4...(page 7)

(b) " " " Q No 2...(page 4)

(c) " " " Q No 31 (a) (page 50)

(d) " " " Q No 31 (b) (page 52)

7. Which of the following income, if any will be included in the total income of an assessee and under what circumstances.

(a) Income of the previous year arising to a resident from outside India, (b) dividend declared in the previous year but paid in the year of assessment. (c) Capital gains. (d) Salary paid in the previous year though not due.

Ans. (a) See Ans to Q No. 19...(page 30)

(b) Income from dividend is assessable in the previous year when it becomes due. It becomes due when dividend is declared by the company.

(c) See Q. 82. (page 187)

(d) See Ans to Q 29 (d) (page 47)

8. In the year ended March 31,1962, a person owns two houses, one of which he uses for his own residence (municipal valuation on rental basis, Rs. 3,600) and the other he lets out at a rental of Rs. 200 per month, his income from company dividends, after deduction of income-tax at 30 per cent, is Rs. 2,800, his income from other sources is Rs. 239. Calculate his total income for the assessment year 1962-63.

Ans. See answer in Q. No. 50. (page 110)

C. U. B. Com. (Pass) 1965

6. Define the following according to the Income Tax Act. : (a) Capital Asset. (b) Assessee. (c) Hindu Undivided Family and (d) Previous year.

Ans. (a) See Ans to Q 83 (page 187)

(b) See Ans to Q 9.(page 10)

(c) See Ans to Q 3. (page 7)

(d) See Ans to Q 13. (page 22)

7. What are the different heads of income under which a person may be assessed? Add a short note explaining each head.

Ans. See Ans to Q 28. (page 47)

8. Which of the following incomes are to be included in the total income of an assessee who is a citizen of India.

(a) The value of any travel concession or assistance received by an assessee from his employer.

(b) Motor car allowance received by an employee to meet the expenses of a motor car which he maintains for his office work.

(c) Income accruing to a friend of the assessee on account of dividends on shares held by the assessee, the dividend being payable to the friend on the strength of an irrevocable registered deed

(d) Income arising by way of allowance when the assessee is in Government service outside India.

Ans. (a) See page 215 (Exemptions)

(b) It is not to be included in his total income as the allowance is paid to meet the car expenses.

(c) All income arising to any person by virtue of a transfer whether revocable or not where there is no transfer of the assets from which the income arises, be chargeable to Income-tax as the income of the transferor and shall be included in his total income.

(d) See page 215 (Exemptions)

BURDWAN UNIVERSITY—(1965)

Income-Tax

1. What are the conditions prescribed for the allowances of Development Rebate ?

2. (a) Define the term 'perquisite'. State the items which are regarded as perquisites under the Income Tax Act. 1961.

(b) Write explanatory notes on the following :—

(i) Profits in lieu of salary (ii) Provident Fund.

3. Mr. Banerjee, an employee of Calcutta Film Industries Ltd. since 1959 furnishes the following particulars of his income for the year ended 31st. Decemcer, 1963 :—

(a) Monthly salary of Rs. 1,000

(b) Entertainment allowance Rs. 300 p.m.

(c) Bonus equal to 3 month's basic salary.

(d) Commission @ 10% on the net profit of the company which for this year amounts to Rs. 2,00,000.

(e) A rent free furnished quarter was provided to him for which the company paid a monthly rent of Rs. 500/-

(f) He has purchased books for his duty in the office amounting to Rs. 700/-

(g) Paid Life Insurance premium of Rs. 200/- p. m. on the life of his wife on a policy of Rs. 15,000/-

You are asked to find out his income from salary for the year ended 31st, December, 1963.

B. U. B. Com. Examination

1964

Income-Tax. [Elective Group]

(All reference are to the income-tax Act 1961)

1. Define any two of the following terms.

- (a) Dividend
- (b) Previous year
- (c) Agricultural Income

2 Enumerate the conditions that will determine the status of an individual "Assessee" on the basis of residence. Discuss the incidence of tax on a person who is not "ordinarily resident".

3. Mr. Banerjee furnished the following informations with regard to his income for the previous year 1962-63.

(i) Salary @ Rs. 1000 p. m, (ii) Dearness Allowance @ Rs. 100 p m. (iii) Entertainment Allowance @ Rs. 500 p. a. (iv) Car Allowance Rs. 100. p.m. He also enjoyed a rent free unfurnished quarter provided by his employer, the annual value of which was Rs. 3000.

He owned a house which was let out to tenants at a rent of Rs. 2000 per month. The municipal valuation of the house was Rs. 2,000 He paid Rs. 200/- as Municipal tax on the house. He contributed 10% of his salary to a Recognised Provident Fund to which his employer contributed 12% of his salary. Life Insurance Premium paid by him during the year amounted to Rs. 2000 [The policy was for Rs. 35,000]

He used to receive Entertainment Allowance of Equivalent amount since 1950 from the present employer, 50% of Car allowance was spent for private purpose.

Compute the 'total income' of Mr. Banerjee for 1962-63.

B. U. B. Com. (Modified) Examination—1964

1. Define the following as per Sec. 2 of the Income-tax Act.

(a) "Agricultural Income" (b) "Assessee"

2. Under what circumstances an "individual" will be treated as "Not ordinarily Resident"? Does it make any difference if the assessee is a company.

(a) On the 1st August, 1961, A started a new cloth business. Up to the time of assessment for 1962-63 he had not made up the accounts of his new business. If his assessment were taken up in September, 1962 and he urged that he wanted to adopt the year ending 31st July as his previous year, would you concede to his request? If so, why.

(b) X is a partner in the firm X, Y, Z & Co. The partnership books are closed every year on March 31. Apart from income from partnership, X has a separate business for which he closes the accounts on June 30. What are his previous years for the Assessment year 1963-64.

B. U. 3-year B. Com. Examination—1963

Income-tax (Elective Group)

1. (a) What are the different types of income included under the head "salaries"

(b) Name four items of income which are exempted from Income-tax and Super-tax and need not be added to total income for rate purposes.

2. Name any five deductions which are allowed in computing income under the head "profit and gains of business or profession",

3. What is "Development Rebate"? Under what circumstances is it allowed.

4. Mr. Ranganathan who is a Government employee draws a salary of Rs. 2000/- —Per month. He received the present appointment on 1st April 1962 on which date he joined the same. He is also in receipt of Entertainment allowance of Rs. 6,000 per annum. Find out the amount of deduction he will be entitled to an account of Entertainment allowance in the Assessment year 1963-64.

Does it make any difference if he is not a Government employee.

B. U. B. Com. (Modified) Examination—1963

(1) Define the following.

(a) Company in which the public are substantially interested.

(b) "Previous year"

(2). (a) What is difference between "Total income" and "total world income"

(b) What are the different heads under which income is charged to income-tax? Give one illustration of each.

3. (a) What is meant by "perquisites" for the purpose of determining income under head "Salaries".

(b) What are included in "Profit in lieu of salary"?

B. U. B. Com. (Modified) Examination—1962

Income-tax

- (1) Explain the term “Agricultural Income”, ‘Earned Income’ and “Capital Assets” as defined in the Act.
- (2) What types of distribution are included in the expression ‘Dividend’
- (3) When does an individual become ‘resident’ in the taxable territories? What further conditions must be satisfied for him to become an “ordinarily resident”?
- (4) What is meant by “Previous year”, How is it determined in the case of a newly set up business? Under what circumstances a “previous year” can exceed a period of 12 months.

Important Notes

1, Annual value of the House Owned and occupied by the Assessee. Method of Calculation of 10% of the total Income

Suppose that x is the annual value of the house and y is the income from other sources as reduced by deductible expenses in respect of the house concerned.

Now the total income will be $x + y$ and x will be 10% of the total income less repairing charge of the house which will be $\frac{1}{8}$ of the value.

$$\therefore x = \frac{x+y}{10} \times \frac{5}{6} = \frac{x+y}{12}$$

$$\text{or, } 12x = x + y \text{ or } 12x - x = y \text{ or } 11x = y$$

$$\therefore x = \frac{y}{11}$$

To find out the net Annual value we may put it in the following way.

$$\frac{10}{100} \times (x + y) = \frac{10}{100} \times \left(1 + \frac{1}{11} y \right)$$

$$\text{Annual Value} = \frac{10}{100} \times \frac{12y}{11}$$

2. There is one exception to the general rule in counting previous for any relevant assessment year in the case of assessee who maintains their books according Bengali calendar year. Bengali calendar year generally ends on 13th or 14th April every year. Although it crosses over

the closing date of financial year (31st march) every year and supersede it by 13 or the 14 days the period of 13 or 14 days should be ignored for the purpose of determining relevant assessment year and it will be treated as has been ended on 31st march just preceding.

Errata :—1. under (iv) in line 14. (page 26), delete the word “no”

2. under (5) in line 13 (page 97) read “in the case of single residential house owned and occupied by the assessee” in place of “in no cose”.

3. under (5) in line 19 (page 105) put the words”. “নিম্নে থাকিবার একমাত্র বাড়ীর ক্ষেত্রে”

